

**THE INVESTIGATIVE METHODOLOGY TO INITIATE INTERNAL
INVESTIGATIONS IN THE SOUTH AFRICAN CORPORATE ENVIRONMENT**

by

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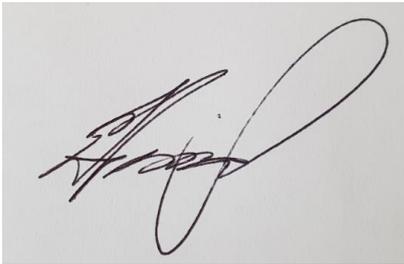
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JULY 2018

CERTIFICATE OF AUTHENTICITY

I declare that this dissertation entitled “**The investigative methodology to initiate internal investigations in the South African corporate environment**” is my own unaided work, and all sources used or quoted have been reflected and acknowledged by means of complete referencing. It has been submitted in partial fulfilment of the requirements for the degree of Magister Technologiae in the subject of Forensic Investigation for the school of Criminal Justice, University of South Africa.

A handwritten signature in black ink, appearing to read 'De Wet Ferreira', is shown within a rectangular frame. The signature is fluid and cursive, with a large loop at the end.

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Yours sincerely,

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ABSTRACT

The investigative methodology to initiate internal investigations in the South African Corporate environment

Conducting internal investigations in the corporate environment in South Africa has become an everyday occurrence where companies need to take action after an incident took place.

Each company has a different view regarding their processes followed when investigating internal matters, and the different objectives that drive the process. Some companies would prefer the suspects be disciplined and removed from their employment, and no further action taken after the dismissal and some companies would have a different approach and would follow the process through the disciplinary, the criminal prosecution and institute civil litigation to recover losses. Investigation differs, and the approach would be different as well with various reasons for the approach of the company.

To establish what the methodology is that is followed when initiating an internal investigation and the drive behind the methodology followed was done. The methodology and process followed determines how the internal investigation process is done and concluded to ensure that similar incidents do not occur again, and thus protect the corporate environment in South Africa.

Key Terms

Association of certified fraud examiners, certified fraud examiner, corporate environment, forensic Investigation, internal investigation, investigation

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ABBREVIATIONS

ACFE	Association of Certified Fraud Examiners
ACFESA	Association of Certified Fraud Examiners South Africa
CEO	Chief Executive Officer
CFE	Certified Fraud Examiner
IR	Industrial Relations
POCA	Prevention of Organized Crime Act
PWC	PricewaterhouseCoopers
SA	South Africa
SAPS	South African Police Service
UNISA	University of South Africa

CHAPTER 1

GENERAL ORIENTATION

1.1 INTRODUCTION

In the investigation of crime, in the corporate environment, there are several ways and objectives with each investigation. Corporate company's employee Forensic investigation specialists or they would implement or start Forensic Departments to investigate, detect and prevent fraud, corruption, theft, and other crimes to ultimately protect the company from losses and other associated risks. Van Rooyen (2008:11) also confirm that forensic investigation has become an important component with government and private entities and that these entities rely more and more on forensics to solve and deter problems and contribute to good corporate governance.

Each company has a different view regarding their processes followed when investigating internal matters, and the different objectives that drive the process. Some companies would prefer the suspects be disciplined and removed from their employment, and no further action after the dismissal and some companies would have a different approach and would follow the process through the disciplinary, the criminal prosecution and institute civil litigation to recover losses. Investigation differs, and the approach would be different as well with various reasons for the approach of the company. Although there would be some legislative requirements that guide companies in the process to follow and what action to be taken when investigating internal fraud or the reporting of fraud and related crimes, there is no legislation in South African law or set guideline that cover the entire spectrum of criminal activities in the corporate environment and the reporting or investigation thereof.

1.2 PROBLEM STATEMENT

According to the Business Insurance White Paper (2013), "A company's reputation is one of the most – if not the most – important assets it possesses. Consequently, reputational damage can have a dramatic effect on a company's value, perhaps threatening its very survival, which makes the proper response to reputation-threatening events critical."

It's a well-known fact the companies are afraid of the reputational damage that might be associated with crime within the company, and what their internal and external stakeholders might perceive about internal controls. The perceived reputational damage, as well as associated financial losses as a result of the crime, could be a deciding factor on how to approach the internal investigation process.

The different approaches on how to conduct investigations in the best interest of the company could be to ensure the suspects are removed from the system or company, to follow through on the criminal prosecution and to institute civil litigation to recover the losses ultimately. The different approaches would depend on the company and their tolerance for fraud or related crime, and the objectives of the forensic departments.

According to Welman, Kruger and Mitchell (2007:13), "a research problem refers to some difficulty that the researcher experiences in the context of either a theoretical or practical situation and to which he or she wants to obtain a solution." The researcher is an independent Forensic Investigator who conducts investigations in various industries and companies as a contractor and on specific engagements or cases as contracted by such corporate entities. He is also a former Board and Exco member of the Association of Certified Fraud Examiners (ACFE), South African Chapter (SA) for the past 6 years. During his day-to-day operations as Forensic Investigator, and dealings with other members of the ACFE SA, it became apparent that different corporate companies have different objectives when internal fraud and related crimes are investigated with different reasons for the set objectives.

In the experience of the researcher and the content of King III (2009:56) that stipulates that the corporate environment is managed, controlled and guided by professionals in management positions that operate and make decisions in the best interest of their employers, shareholders, audit committees and their respective boards in the execution and implementation of corporate governance. In this process, they guide or instruct their forensic investigators (internal and or external) to do investigations with specific objectives in mind, that is in the best

interest of the company. These objectives would differ from investigation to investigation and from company to company.

The concern with this situation would be that not all cases are investigated with the same objectives with regards to possible internal disciplinary action, criminal prosecution or civil litigation instituted against the perpetrators.

During the investigation of crime, informal discussions and working with other investigators, especially in the Corporate Environment and the ACFE SA, it has been established by the researcher that all the corporate investigators experience different challenges when dealing with internal investigations. The common challenge is then to have a standard process to follow when initiating investigations in the corporate environment, to ensure successful disciplinary action, criminal prosecution and civil litigation because of the different objectives within each corporate entity. Whereas Purchase (2013:260) state that “compliance programmes, fraud and corruption prevention plans and periodic internal training are increasingly seen as effective and cost-effective ways of limiting the compliance and criminal risks that corporate entities are exposed to.”

Because of informal discussions with other investigators, the researcher determined that there were similar problems or obstacles that most of the investigators needed to address and they can be clustered as:

- (a) The investigators must follow the process stated by their employers or the company.
- (b) The companies only require disciplinary action to remove the suspects from the system or employment.
- (c) The criminals get away without being criminally prosecuted and gain the stolen funds because of the no further action approach by certain companies.
- (d) The companies do not want to spend money and time on criminal prosecutions or civil litigation.
- (e) The companies do not want their reputations to be tarnished by bad publicity about internal fraud or deficiencies.

Since most investigators that form part of the ACFE SA experience a similar situation when investigating internal crime, the primary challenge is to understand the rationale behind the company's objectives with regards to internal investigations and their objectives.

The challenge is thus to understand the thought process by the corporate entities and to establish why they have the approach they have, and the methodology followed when initiating an internal investigation.

Moreover, a further challenge identified by the researcher during the informal discussion is that there are either no set guidelines or very little in terms of procedures or guidelines available to the investigators to guide them in the process when an investigation is initiated to make sure that the disciplinary, criminal and civil process is followed as the end result. This may result in suspects not being prosecuted criminally; the losses not recovered and provide dismissed employees the opportunity to enter any other corporate entity without a criminal record, thus posing a major risk to the new employer.

According to Ferraro (2012:6-7):

Because workplace investigations can be extremely complex and often involve potential litigation, a commitment by management is an essential component if success is to be achieved, and in the world of business, time is money – and money is what business is all about. From the employer's viewpoint, an investigation that consumes time consumes money as well.

The researcher concluded that the investigators within the corporate environment do not have a common standard with regards to the initiation of internal investigations and following through on the three-way prosecution process that includes disciplinary action, criminal prosecution and civil litigation. This conclusion identified the problem statement, which resulted in this study being done.

1.3 RESEARCH AIM

The Concise Oxford Dictionary (2007) states that “an aim is defined as the purpose of achieving something.” According to Mouton (2001:50), as a researcher,

one must be clear about the objectives of the research and general aims of the study: in other words, what you want to find out or establish through the research.

Furthermore, Rubin, Rubin and Piele (1990:190) argue that, the reason for conducting research would be to answer questions not already answered, and that there is a process that should be followed when conducting such research to answer the said questions. The process mentioned would entail the identification of the problem, reviewing past research, asking new questions, investigation, gathering and processing information to get results and then the discussion of the results found.

This research aimed to identify the investigative methodology followed when initiating an internal investigation in the South African Corporate environment.

1.4 PURPOSE OF THE RESEARCH

As stated by Welman et al. (2007:22), the purpose of research is three-fold, (1) how, (2) why and (3) what to predict. In other words, to describe how things are, why things are the way they are, and to predict what is and can be.

According to Denscombe (2002:26-27), “the six possible purposes for doing research are forecasting, criticising, evaluation, description, development and empowerment.” In addition to this, the study focused on the following purposes as described by Denscombe (2002:26-27) who agrees with Creswell and Clark (2011:151) that the purpose statement conveys the overall purpose and should include a central phenomenon, the participants and the research being conducted. These authors simply state that research serves many purposes, such as exploration, description, explanation, forecasting or prediction, empowering and application.

- **Evaluation of the situation:**
This purpose (research) is driven by the desire to arrive at conclusions about the value of one thing when compared with alternatives (Denscombe, 2002:27). This research intended to investigate the approach followed by the corporate investigators, and the reason for the identified approach. The identified sample group was interviewed, and the information received from

them was analysed to determine what procedure or methodology is followed, why they follow the process and then to determine the common standard in the corporate environment. Therefore, the researcher evaluated the existing process and methodology followed with the intention of determining the strengths and/or weaknesses in these processes.

- **Exploration:** The intention here was to discover information that did not exist before. The research broke into new territory to explore processes followed, or not followed, as the purpose of exploration is to determine how things are, and what processes are followed currently in the corporate environment in South Africa. The researcher studied similar research on the topic and key concepts and relevant aspects thereof to determine previous findings if any and then applied it to the research to determine the proposed procedure that should be followed.
- **Applied research:** The applied research was to solve the problem as identified and/or improve procedure regarding the research problem. The aim was to arrive at recommendations for good practice that will address the problem and/or enhance performance with regards to the research. All the information received from the evaluation and exploration phases was analysed to get to the best possible conclusion on the research, to establish the best possible procedure as a recommendation based on the research.
- **Empowerment of those being researched:** The purpose as identified in the evaluation, exploration and applied research processes was to empower the investigators and therefore to establish the methodology followed by corporate entities in the investigation of internal crime. The findings made based on the research, the findings and recommendations can be provided to the entire corporate investigation industry as a guideline. This can be used to the benefit of all investigators involved with the investigation of crime within the corporate investigation environment.

1.5 RESEARCH QUESTIONS UNDER INVESTIGATION

To have reached the aim of the research taking into consideration the purpose as stated and argued by Denscombe (2002:26-27) and by Welman et al. (2007:22),

which will serve as the backbone of the research, there must be research questions formulated to be answered by the population or sample group involved in the research. Creswell and Clark (2011:161) concur and state that the research question narrows the purpose statement through research questions or hypotheses that make predictions about the results of relating variables.

The following research question has been used and addressed during this research:

- Which investigative methodology is used when initiating an internal investigation in the South African corporate environment?

1.6 KEY THEORETICAL CONCEPTS

Bless, Higson-Smith and Sithole (2016:80) reveal that the main functions of the concepts are firstly, to facilitate communication and aid in the classification of the elements among human beings and secondly concepts aid in the classification of the elements of reality and their generalisation. According to Leedy and Ormrod (2005:119), the purpose of defining key concepts is to prevent any misunderstanding. Therefore, to facilitate communication and prevent misunderstandings the following concepts were defined:

1.6.1 Internal investigation

Purchase (2013:260) states that “Companies are entitled to conduct their own investigations and are not ordinarily obliged to share the findings of the investigations with authorities”, as well as “Internal investigations may be carried out by internal forensic and audit departments, and that such investigations commonly encompasses the collection and analysis of documents, undertaking background checks, asset tracing, and conducting internal and external interviews.”

1.6.2 Investigative process

Gilbert (2004:54) defines an investigation process as the process to cover an extensive scope of duties, objectives and methods within a framework to structure an investigation.

1.6.3 Investigation

Most of the sources the researcher checked to obtain a definition for the word “investigation” utilise some of the same words or phrases, including detailed, systematic examination; fact-finding; truth searching and/or carefully looking for something hidden or previously unknown. All the words combined would seem to adequately describe what an investigation means. However, it’s probably worth noting that in addition to sometimes attempting to find evidence that supports allegation/hypothesis that a wrong did occur or that a particular person/s or suspect/s committed the wrong, it’s just as important attempted to search for evidence that supports that perhaps the “wrong” never occurred or that a particular person (the suspect) did not commit the wrong (Piper, 2014:9).

1.7 RESEARCH METHOD/DESIGN

The researcher made use of the qualitative research method or design for this study, as the approach is selected since the researcher aimed to explore and ultimately understand the meaning that the individuals ascribe to a specific problem (Creswell, 2014:4, 86). Creswell furthermore states that the researcher will learn about a specific problem from the participants and address the research to obtain that information. In support of Creswell (2014:4, 86), regarding the type of research method or design decided on, the approach was a qualitative research method as described by Bryman, Bell, Dos Santos, Du Toit, Hirschsohn, Masenge, Van Aardt and Wagner (2017:41, 363) that qualitative research where researchers would rather prefer inductions (generation of theory from data), informed by constructionism and interpretivism (it assumes that any research approach needs to respect the differences between people and the objects of the natural science), and the strategy for analysing qualitative data discussed involve the exploration of a particular research question.

This research was qualitative in approach because it is important to listen to the ideas and personal experiences of the participants or to gain an in-depth understanding of their ideas. This required that the research be empirical in nature (Creswell, 1998:15). In agreement, Leedy and Ormrod (2005:133) state that “qualitative research focusses on phenomena that occur in natural settings, which

is real world, and involves studying those phenomena in all their complexity.” To meet these requirements, the researcher interviewed the employees identified in the sample group that is responsible for the investigation of matters in their respective corporate environment in South Africa. Bryman et al. (2017:12, 24), argue that a study that is empirical in nature when the appropriate method is used to understand reality, and furthermore state that with an empirical method or research the researcher does not find the empirical material, it finds the researcher. Bryman and others then explain that by “developing sensitivity for rich, empirical data and willingness to respond to situations where they arise, the researcher takes a more opportunistic approach to his or her task.”

Another reason qualitative research was used is that it is:

... essential whenever previous research and theories yield scanty information about the topic and issues; when there are likely to be strong contextual effects (that is, the previous research and theories may not be a useful guide to the specific situation confronted the researcher) and when researchers want to enhance the validity of the interpretations by drawing on the experiences of those most involved in the research setting itself (Pope, Lovell & Brandl, 2001:369).

1.8 POPULATION

For the researcher to ensure that the planned research was done with a specific group of individuals and or case studies, a population was identified that would be involved, responsible and ultimately benefit the planned research as stated by van Zyl (2014:95) where he describes population as being a group of participants or potential participants to whom one want to generalise the results of the study.

Adams and Schvaneveldt (1991:177) refer to the concept of a population as the entire group that has some common aspects that makes them part of the population. They also state that the entire groups or population may be people, objects, materials, events and that the size might vary from very large to a specific sample number. In agreement with Adam and Schvaneveldt, Creswell (2014:228) further states that the steps for the study began with a discussion about the purpose, the identification of the population and sample, the survey instruments to

be used, the relationship between the variables, the research questions, specific items on the survey, and steps to identify the participants.

The ideal population about this research was the people that are involved in the investigation of internal matters in the corporate environment in South Africa or someone that would determine what the objectives of such investigation will be for the employer or the corporate company. In this research, it was impossible to do research on the entire population, as it would have taken too long and be costly and logistically impossible, thus a target population was selected.

According to Welman, Kruger and Mitchell (2005:52), the target population encompasses the total collection of all units of analysis about which the researcher wishes to make specific conclusions. The researcher identified the target population of this research as all the companies or individuals that are members of the Association of Certified Fraud Examiners South African Chapter (ACFE SA) that work in the corporate environment as forensic investigators and conducts internal investigations in the Gauteng area. The researcher requested Jaco de Jager, the Chief Executive Officer (CEO) of the ACFE SA to do an exercise of randomly selecting (5 companies that are members of the ACFE SA corporate membership) some of the members of the ACFE SA from his member database, that fall within the category of the population, and then provide the company's names to the researcher. The researcher then requested permission from the companies to interview some of their employees, before identifying the participants within the respective corporate environments for interviews.

1.9 SAMPLING

In sampling, people or other units are chosen, as the name implies, for a purpose. For instance, we might choose people whom we have decided are "typical" of a group or those respect diverse perspectives on an issue. Random sampling may be very appropriate for certain research problems. However, the researcher should always provide a rationale explaining why he or she selected the sample of participants (Leedy & Ormrod, 2005:206).

Kumar (2014:244) describe purposive sampling or judgemental sampling as "to your judgement as to who can provide the best information to achieve the

objectives of your study. You only go to those people who in your opinion are likely to have the required information and be willing to share it with you.”

The ACFE SA has approximately eleven thousand (11 000) people on their database including an estimated two hundred (200) registered corporate members as part of the South African ACFE chapter. From the corporate members of the ACFE SA, an estimated fifty (50) of them have their own internal investigation departments that conduct investigations internally. By using the random sampling method as described by Kumar (2014:234, 236) where it states that it is imperative through random sampling that each element of the population stands an equal or independent chance of selection in the sample. To finalise the sample group and identify the random sample it was requested that Jaco De Jager, the CEO of the ACFE SA make use of the “Fishbowl draw technique” and to put the names of the fifty (50) corporate members in a box and draw five (5) possible companies that the research could be conducted on from the names in the box. The “fishbowl draw technique” as described by Kumar (2014:236) is described to be:

... if your total population is small, an easy procedure is to number each element using separate slips of paper for each element, put all the slips into a bowl and then pick them out one by one without looking, until the number of slips selected equals the sample size you decided upon. The method is used in some lotteries.

The following companies were selected by Jaco De Jager:

- Discovery
- Eskom
- Anglo
- Nampak
- Capitec Bank

The companies identified by the CEO of the ACFE SA were contacted, and permission requested to interview people in the different departments associated with the internal investigations. The relevant heads of departments of the respective corporate companies were contacted and ask for the person or

employee that would be most suitable for the specific sampling technique, being the most qualified, experienced and knowledgeable about the topic and what would be the best to provide the best response to the questions prepared. The heads of departments then provided the details of the relevant employee, and they were requested to take part in the study and research. The five (5) most suitable participants were interviewed from the five (5) different companies identified previously.

1.10 DATA COLLECTION

When conducting the research, both literature study and interviews were used as collection methods to obtain data for this study. One can also make use of a survey research approach (Schloss & Smith, 1999:67). The researcher gathered data through literature study and individual face-to-face interviews. Kumar (2014:170-171) state that most data collection methods can be used within various research methods such as quantitative, qualitative and mixed methods, and that the specific method employed for data collection will determine the classification of the study to a large extent. Kumar furthermore explains that the difference between the approaches whether it is quantitative or qualitative, it would depend on three (3) things: How the data is collected, how it is analysed and ultimately how the findings are communicated.

1.10.1 Literature Study

The researcher consulted numerous literature sources from the University of South Africa (UNISA') library in Florida and Sunnyside Campus, as well as books collected over the years regarding the subject of investigations and corporate investigations, as well as literature from the ACFE SA. Data was also obtained from certain sources on the internet (relevant forensic investigation related websites, Google, training institutions websites, and international journals), training material from the South African Police Service (SAPS) Detective Academy collected over the years when the researcher underwent training, the Association of Certified Fraud Examiners (ACFE) website (for written literature, journals, and discussion forums about the topic) and ACFE Examination preparation material. Literature collected, and sources are noted in the "list of references" at the end of the portfolio. In the absence of material about the topic, research was conducted

on the key concepts, the aim of the research and the research questions, as well as international journals in this regard.

Data was collected and obtained from national and international sources using the following key concepts:

- Internal Investigations;
- Investigative process; and
- Investigation.

To ensure that all the data is of the same standard and that all the data is treated the same; the same process was followed throughout as identified in the analysis process, using the spiral analysis technique, and ensuring reliability and validity throughout this research.

1.10.2 Interviews

Babbie (1989:244) defines an interview as an alternative method of collecting survey data. Rather than asking participants to read questionnaires and enter own answers, researchers ask questions orally and record participants' answers. This is done by face-to-face encounter. Denscombe (2003:167) describes a semi-structured interview, as:

... with semi-structured interview, the interviewer still has a clear list of issues to be addressed and questions to be answered. However, with the semi-structured interview the interviewer is prepared to be flexible in terms of the order in which the topics are considered, and, perhaps more significantly, to let the interviewee, develop ideas and speak more widely on the issues raised by the researcher. The answers are open-ended, and there are more emphases on the interviewee elaborating points of interest.

Bryman et al. (2017:224), explain qualitative interviewing:

... to usually be unstructured or semi-structured interviews as the interviewer varies the approach taken, as with both methods the interview is flexible, and the emphasis is on how the interviewee frames

and understand issues and events – that is what the interviewee views as important in explaining and understanding events, patterns and forms of behaviour.

The researcher planned the research in such a manner that semi-structured personal one-on-one interviews were conducted with all the participants, to get the personal view of each participant in the research using open-ended questions for them to elaborate on their experience based on the questions.

A detailed interview schedule was compiled using the identified research question as a foundation for the interview schedule, with the different key concepts as a heading with the relevant questions to explain the research question and address the topic of the research, as per **Attachment A**. Kumar (2014:13-14) is of the opinion that “when the purpose of a study is to determine its feasibility, it is also called a feasibility study or a pilot study, and by means of a small-scale study to decide if it is worth carrying out a detailed investigation of study.” Prior to conducting the interviews with the participants using the interview schedule, a pilot interview was done to test the questions and response and to ascertain if it is in line with the research question and aim of the study. The pilot study was done, and the questions discussed with Ansie De Jager, a qualified Certified Fraud Examiner (CFE), advocate and trainer of the CFE qualification in South Africa, with more than 20 years investigation experience in the corporate forensic environment. The interview schedule was used as the guideline when the interviews were conducted with the participants and she agreed and believed the study would ultimately provide answers to the aim and research questions.

The questions in the interview schedules were determined from the literature review conducted, personal experience of the researcher from the informal discussions with fellow forensic investigators. The research question and aim identified to address the research problem at hand, whereas the research is trying to establish the methodology used to initiate an internal investigation in the South African corporate environment. The interviews were noted from the interview schedule, and interviews recorded in writing and by means of a voice recorder to ensure that when the data is analysed all the facts and information were at hand from the interviews.

For the research and adhering to the process described by Leedy and Ormrod (2005:206) above, the following process was followed:

- The interview schedule was drafted prior to the interviews, and the permission obtained from the respective companies, as per **Annexure A, B, C and D**.
- Suitable locations were identified where one on one conversation could be conducted without disturbance, and most of the participants were interviewed at their place of work and in their respective offices, and two were interviewed in a coffee shop and restaurant.
- The participants all gave permission for the interviews to be conducted and recorded, this form part of the interview schedule document.
- The interviews were conducted in a relaxed and calm manner, yet organised and professional while the participants were was comfortable to provide their answers and opinion.
- The responses were recorded by means of a voice recorder and notes were made as the answers were given.

1.11 DATA ANALYSIS

Data analysis according to Hoyle, Harris and Judd (2002:425) is when the researcher arranges the data in ways that will assist them to determine patterns, problems and see whether the data is inconsistent with the hypothesis, in the case of this research it will be the research questions. Welman et al. (2007:211), refer to data analysis by means of (mainly) statistical techniques helps us to investigate variables as well as their effect, relationship, and patterns of involvement within the world. In this approach (where the theory is not finally and irrefutably proven to be correct, but is only provisionally), the data obtained will finally determine whether or not the theory receives support rather than, for example, the authority of the person who has come up with the theory in question.

The researcher analysed the data using the four basic steps mentioned by Leedy and Ormrod (2005:150) as the Spiral analysis method. The steps are as follows:

Step 1 – Organise the data: Data from the data collection methods were categorised and organised according to the different research questions (interview schedules and literature).

Step 2 – Perused the data to get a sense of what it contains: Information was perused, in order to get an understanding of all the information and a sense of what the participants and literature have in common.

Step 3 – General categories or themes were identified: Information was compared to the different categories to identify variations and similar meanings and explanations.

Step 4 – Integrate and summarise the data: The data was integrated to determine and identify relations amongst categories and summarised to get to some conclusions and recommendations regarding the topic and the research questions of the research.

This research was discussed with some colleagues that are not part of the sample group to get a better understanding of the findings and to determine if it makes sense.

1.11.1 Background analysis of participants

The participants that were selected were all selected within the companies identified as they are the best possible participants to provide insight and responses on the question compiled for the purpose of this study. The participants have the following background, training, knowledge and experience to make them the best suitable candidates to interview:

Participant 1: Has 19 years' experience in internal investigations for the same company, conducting internal and external fraud related matters as well as other crimes and internal incidents within the business. He is a qualified CFE and did a forensic investigation qualification

at the University of Johannesburg and received various internal investigation training including the Labour Relations training.

Participant 2: A former Captain in the SAPS Commercial Crime investigation branch with 26 years' experience and a further four years in the corporate environment that is a qualified CFE and educated within the SAPS where he successfully concluded Commercial Crime level 1, 2 and 3. He has a vast array of investigation knowledge and experience especially commercial crimes (fraud and corruption in all industries) where he dealt with internal and external fraud in the corporate environment over the years.

Participant 3: The participant has more than 17 years internal corporate investigation experience, a qualified CFE that also concluded the certificate in fraud examination and an advanced certificate in fraud examination from the University of Pretoria and underwent several internal training sessions with various employers regarding internal fraud and investigations.

Participant 4: The participant has almost 24 years' experience, with 11 years as a member of the SAPS and detective at the commercial branch, and the 13 years' experience in the corporate environment for the same employer. He is qualified CFE, and successfully concluded the certificate in fraud examination at the University of Johannesburg and a degree in Forensics from the University of Pretoria.

Participant 5: For the past 12 years, he started, built and managed the internal and external investigation department for his current employer, with his previous 19 years' experience in the SAPS as a detective. He is not a qualified CFE and provided internal training to his staff and fellow employees on internal investigations on a regular basis.

The respective participants have an average of 23 years law enforcement and investigation experience between them from the SAPS and their respective corporate environments and are a great sample to have interviewed to provide the best possible responses to the questions posed, and ultimately address the research question and aim.

1.12 METHODS TAKEN TO ENSURE VALIDITY (CREDIBILITY)

According to Denscombe (2002:100), validity refers to the accuracy of the questions, the data that are collected and the explanation thereof, it is referring to the data and how it is analysed. The questions that will be asked to the participants would be based on the topic and the research questions and the aim of the research. The literature study would also be based on the research aim and questions with the key concepts as keywords. In agreement with Denscombe above, Creswell (2014:201) believes validity is seen as a strength in qualitative research, and it is used to suggest determining whether the findings are accurate from the standpoint of the researcher, the participants, or the readers of an account.

Validity is concerned with establishing evidence for the use of a particular measure or instrument in a particular population for a specific purpose (Morgan, Gilner & Harmon, 2006:50), and in agreement and further explanation Welman et al. (2007:125), refer to external validity and threats as when “a theory always holds for a specific population of units of analysis and Universum of conditions. Any implication deduced from such theory that is subjected to empirical testing, is similarly applicable to such a population and universum.”

According to Kumar (2011:184), one of the areas of difference between quantitative research and qualitative research is in the use of and the importance given to the concepts of validity and reliability. There are some attempts to define and establish validity and reliability in qualitative research. These are “trustworthiness” and “authenticity.” According to Guba and Lincoln (in Kumar, 2011:184), trustworthiness in a qualitative study is determined by four indicators – credibility, transferability, dependability and confirmability – and it is these four indicators that reflect validity and reliability in qualitative research.

During the research and conducting the interviews with the participants the researcher ensured that the same questions were asked of participants, by using an interview schedule based on the aims and research question identified. The participants were required to answer the questions based on their own experience and knowledge. To ensure that the sampling of the participants is correct, the

researcher determined what the participant's experiences are with regards to the specific topic. The interview schedules were only discussed with the people identified in the sample group through purposive sampling.

The Spiral analysis method that was identified as the method of choice has been tried and tested, and when it is followed correctly, it will make the findings of the study or method valid and credible.

1.12.1 Credibility

Schurink, Fouche and De Vos (2011:419) explain that credibility is the alternative to internal validity and with credibility; the goal is to demonstrate that the research was conducted in such a way to ensure that the participants had been accurately identified and described. The credibility of qualitative research can be increased through prolonged engagement and persistent in the field, triangulation of different methods, making use of formalised qualitative methods, and member checks.

The participants were carefully selected from the correct population for this research, in that they all were members of the ACFE SA, and corporate members that conduct internal investigations for their respective employers and through purposive sampling where the most experienced and knowledgeable employees in the specific internal investigation departments were identified, thus ensuring their contribution are credible and related to the research in question.

1.12.2 Transferability

The researcher questioned whether the findings that the research produced could be transferred from a specific situation to another, as it is viewed as an alternative to the external validity of generalisability by Schurink, Fouche and De Vos (2011:420). The findings of the research can be transferred to other individuals and entities in this situation as the findings would be able to assist and possibly guide other corporate entities that conduct internal investigations within their organisations to follow the most suitable methodology when initiating internal investigations in the best interest of the company.

1.12.3 Dependability

Schurink, Fouche and De Vos (2011:420) explain that the researcher must ask whether the research process is presented logically and well documented. Dependability is noted as the alternative to reliability, whereby the research attempts to account for changing conditions in the phenomenon chosen for research to be conducted on. The choice of research methodology that was used in this study will ensure there is a coherent link between the data and the findings, and that it will be acceptable as a true and correct representation of the data collected through all the methods used.

1.12.4 Conformability

Kumar (2011:185) state that conformability is also like reliability in quantitative research, and that it is only possible if both researchers follow the process in an identical manner for the results to be compared. To ensure the research findings comply with the conformability requirements, all process followed was recorded and reported in the research findings, and the set methods can be applied by any other researcher to come to the same conclusion if followed correctly.

1.13 METHODS TAKEN TO ENSURE RELIABILITY

“Reliability relates to the methods of data collected and the concern that they should be consistent and not distort the findings. Generally, it entails an evaluation of the methods and techniques used to collect the data” as defined by Denscombe (2002:100). Babbie and Mouton (2005:119) state that the reliability is a matter of whether a technique, repeatedly applied to the same object, would yield the same result each time. The questions in the interview schedule are all based on the aim and research question. Interviews were conducted, and the same set of questions were put to all the participants, and the answers to the questions were documented and recorded, and the participants were not influenced to answer any of the questions.

The literature used in this research also relates to the topic and research question and aim. The literature which was used, was interpreted correctly and not outdated and is therefore reliable and relevant. The literature is therefor reliable

because it was obtained from libraries and academic institutions in South Africa and other sources as identified in the literature study.

It is the opinion of the researcher that this research is reliable, and if anyone else does the same research they will come to the same reliable conclusion, as the processes followed during the research will be specified and clearly followed. Between Denscombe (2002:100) and Babbie and Mouton (2005:119) they describe the reliability concept as being consistent, and if for any reason any other research or similar studies following the same procedure would come to the same conclusion and reach the same findings, because of the procedure followed and the reliability of the study. The method followed where there is literature review as well as the interviews with participants, the opinions and findings would provide a conclusion as the same problem statement, key concepts, aim and purpose were used in the process of conducting the research.

The researcher, furthermore, agrees that the study and findings are reliable as the concept of reliability as described by Kumar (2014:215) is adhered to where he explains that “the concept of reliability in relation to a research instrument has similar meaning: if a research tool is consistent and stable, hence predictable and accurate, it is said to be reliable. The greater the degree of consistency and stability in an instrument, the greater its reliability.”

1.14 ETHICAL CONSIDERATIONS

The ethical consideration as described by Welman et al. (2007:181), states that:

Ethical considerations, concerned with such matters as plagiarism and honesty in reporting of results, arise in all research, but additional issues arise when the research involves human subjects, in both the biological and social sciences. The principle underlying “research ethics” are universal and concern issues such as honesty and respect for the rights of individuals

Leedy and Ormrod (2005:143) argues that most ethical issues fall into one of the four categories:

- protection from harm – the confidentiality of the participant’s information and responses remains confidential throughout the research and with the findings and recommendations;
- informed consent – no participant was forced to participate, and they were only interviewed if they gave consent after the aim and objectives have been explained to them;
- right to privacy – the interviews were done in private one-on-one sessions, and their information remains confidential throughout the research; and
- and honesty with professional colleagues includes Internal Review Board and professionals’ code of ethics. – The code of ethics is abided by at all times, and each participant was treated professionally, and with honesty, the findings and recommendations are done professionally, and honest findings are based on the research conducted.

Based on the statement made by Welman et al. (2007:181), this research was conducted in such a manner that the privacy of all participants was respected at all times, and it was done freely and voluntarily and the participants could withdraw from the research at any time.

The findings and recommendations were made based on the research done and a high standard of objectivity and integrity that was maintained throughout and taken into consideration the code of ethics as set by UNISA. Unisa’s Code of Ethics for Researchers, as described in the Policy on Research Ethics (University of South Africa, 2013:1-24), was adhered to by the researcher. In addition to the Code of Ethics and process followed, the researcher was granted approval to conduct research by the Unisa Ethics Committee, the official Unisa College of Law Ethics Committee letter is attached as **Annexure E**. Turn-it-in digital receipts received is also attached as per **Annexure F**.

The researcher maintained a high level of ethical consideration throughout the research, in every aspect as stipulated in the Unisa policy relating to the literature research, the interviews and the participants that are part of this study. Besides

the participants, the way the information provided is dealt with will remain of the highest possible ethical standard to ensure an on-going trust relationship between the researcher and the participants throughout this study as well as after the research is completed and handed over to Unisa. All the sources of information, which were used to conduct this research, are acknowledged and referenced according to the prescribed manner, and only the answers and findings in the research are considered as part of this study, to determine the findings and recommendations.

1.15 RESEARCH STRUCTURE

Based on the research problem and research question, the researcher aims to divide the chapters as follows:

Chapter 1: General Orientation

This chapter provides the reader with information on the background and problem that was identified. Important aspects such as, the aims, purpose of the study, research question, research design and approach, sampling methods that were used, collecting of data for the study, analysis of data, ethical issues, validity and reliability are all discussed in this chapter.

Chapter 2: The investigative methodology utilised when initiating an internal investigation in the corporate environment in South Africa

In this chapter, the emphases are on the different types of investigation, the respective objectives of the investigation, especially when initiating internal investigations as well as the benefits and processes followed when initiating internal investigations in the corporate environment in South Africa.

Chapter 3: Findings, recommendations and conclusion

The findings, conclusions and recommendations of the study are reflected in this chapter.

CHAPTER 2

THE INVESTIGATIVE METHODOLOGY UTILISED WHEN INITIATING AN INTERNAL INVESTIGATION IN THE CORPORATE ENVIRONMENT IN SOUTH AFRICA

2.1 INTRODUCTION

“Steinhoff CEO resigns after fraud claims” (MSM Money Business report 06 December 2017), and the share price dropped in value with an estimated 60% in a single day as a result of the resignation and allegations. An international brand and company with subsidiaries in various countries loses value after a single announcement was made regarding possible allegations of internal fraud, with PricewaterhouseCoopers appointed to conduct an internal investigation.

The Association of Certified Fraud Examiners (ACFE) uses the term “occupational fraud and abuse” and defines it as “the use of one’s occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization’s resources of assets” (Biegelman & Bartow, 2012:24). Every second year a global study is conducted relating to internal or corporate fraud in more than 100 different countries specifically to obtain statistics on matters such as the Steinhoff investigations, to ascertain how it was reported, what was done, how was it concluded and the associated cost or losses per case or investigation.

The Association of Certified Fraud Examiners Report to the Nations (2016:2) made some rather disturbing findings regarding fraud in the corporate environment in the study. The ACFE conducts research every year to bring out the Report to the Nations every second year, with the last report issued in 2016. One significant statistic is the fact that an organisation loses an estimated 5% of its revenue in each year because of occupational fraud, and the total loss caused by the cases in their study exceeded \$6.3 billion, with an average loss per case of \$2.7 million.

The report furthermore reports that “Most occupational fraudsters are first time offenders, and only 5.2% of perpetrators in this study had previously been convicted of a fraud-related offence, and only 8.3% had previously been fired by an employer for fraud-related conduct. In 40.7% of cases, the victim organisations decided not to refer their fraud cases to law enforcement, with fear of bad publicity

being the most-cited reason. Of the cases in their study, 23.1% resulted in a civil suit, and 80.8% of such completed suits led either a judgement for the victim or a settlement. The most prominent organisational weakness that contributed to the frauds in their study was a lack of controls, which was cited in 29.3% of cases, followed by an override of existing controls, which contributed to just over 20% of cases.”

To help organisations in different regions throughout the world benchmark their fraud occurrences and manage their fraud risks, the ACFE analysed the prevalence of different forms of fraud in each geographic region as illustrated in Figure 2.1 below.

Scheme	Number of Cases	Percent of Cases
Corruption	138	48.4%
Billing	53	18.6%
Non-Cash	50	17.5%
Cash on Hand	47	16.5%
Skimming	42	14.7%
Cash Larceny	34	11.9%
Check Tampering	33	11.6%
Expense Reimbursements	26	9.1%
Financial Statement Fraud	16	5.6%
Payroll	11	3.9%
Register Disbursements	7	2.5%

Figure 2.1: Scheme Types by Region – Sub-Sahara Africa

(Association of Certified Fraud Examiners Report to the Nation 2016:14)

The ACFE Report to the Nation 2016 furthermore analysed the methods of reporting of internal fraud by the size of the victim organisation as per the Figure 2.2 below:

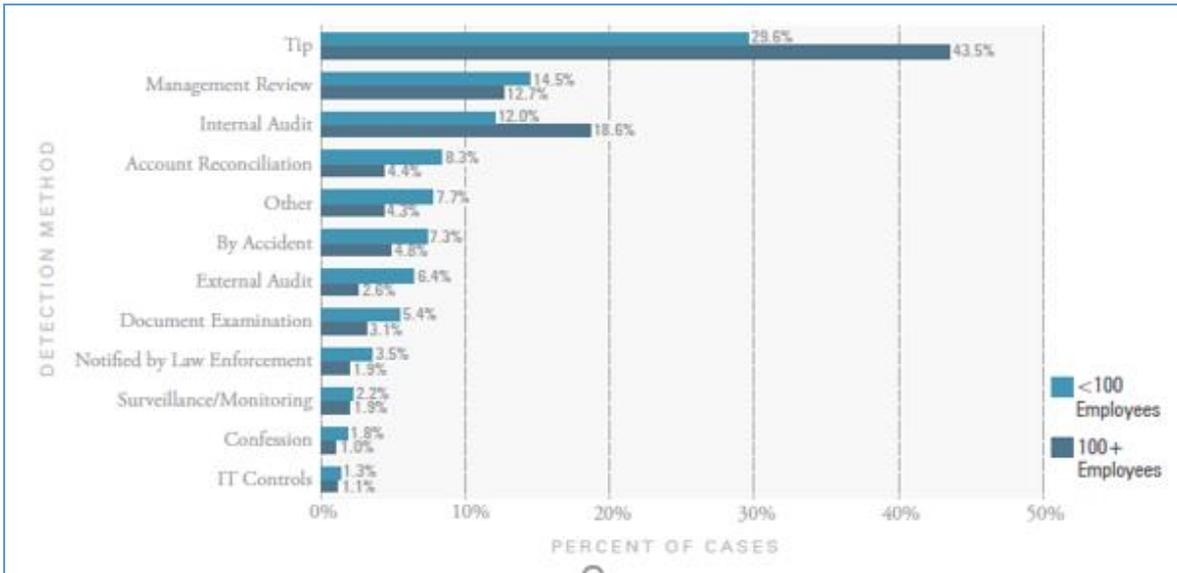


Figure 2.2: Detection method by Size of Victim Organisations

(Association of Certified Fraud Examiners Report to the Nation 2016:22)

The ACFE report to the Nation 2016 furthermore state, with regards to cases that management did not refer to law enforcement; they asked the participants to provide the reason(s) why. As in previous two reports, the top three reasons for declining to refer were fear of bad publicity (39%), internal discipline considered sufficient (35.5%), and the parties reached a private settlement (23.3%).

All companies including non-profit entities are in the business of making money in some form or another and the type of business they are into is the way they make their money. If something happens and the company is defrauded in some way or form by an employee or some internal stakeholder, the company must do something about it. The question remains what “do they do,” especially when they do not know the extent of the fraud or the damage caused by the perpetrator as the loss or impact could be tangible or intangible. The decision by the company to act and how to act can be determined by several factors that would differ from company to company and incident to incident.

This research aimed to determine the methodology utilised by companies in the corporate environment in South Africa when initiating internal investigations. The study of the ACFE report to the nation’s report on how it was reported and various other aspects of the investigation process and findings and outcome when it was finalised, but it also does not address the process or question posed in this study

regarding the methodology applied when initiating the respective investigations. With this study, the researcher will identify what methodology is utilised by the different corporate companies and the processes followed from then onwards in the initiation process.

This research will address the key concepts of investigations, investigative process and internal investigation as applied in the corporate environment in South Africa respectively to provide an overview of the research and making findings and recommendations in the process. With a specific crime or incident that happened or took place within a business or corporate environment, there is normally limited information at hand initially, and sometimes the incident might only be known or reported long after it happened, so to decide on how to proceed or act could be a difficult one by the company or responsible people even if the person making the decision is an experienced investigator or senior management.

Immediately when an incident is reported or detected, a hypothesis is established or formed to determine what transpired and what the possible impact is, with the very limited amount of information at hand. The hypothesis would not always be correct, but it would provide a possible idea as to what transpired, and then a decision can be made on how to deal with the situation and or initiate an investigation.

In South Africa, there are legal requirements companies need to abide by in different situations, and these legal requirements can guide, assist and force companies in the way forward or what to do as the next step. All companies have a legal or fiduciary duty to act in the best interest of its shareholders and stakeholders irrespective of what company it is, and the management must comply and therefore act on any possible incidents or specific crimes committed against the company. To act on an incident would be to take some action or react, but to determine the necessary action that should be taken is to investigate the facts of what transpired and ascertain exactly what the extent is, and what happened and who was involved. This process would be the internal investigation process the company should do, whether it is done by internal employees or external contractors regarding the specific incident.

2.2 INVESTIGATION

“Underworld investigations, Hawks zoom in on grenades and ammunition” (Dolly, 2017). The current trend and on-going investigations in the Western Cape, specifically Cape Town city centre to have control over the nightlife and clubs is leading into several investigations into different people organisations, incidents and security companies. The nightlife and security relating to the nightclubs, strip clubs and drug trade is a lucrative business that is the main drive and reason for the underworld fighting, confirming that even illegal activities are managed, controlled and operated as businesses.

Van Rooyen (2008:2) describes investigation in today’s era to be a part of the everyday life or an integral part of contemporary life, changing from localised law enforcement to boardrooms of corporations and offices of public officials. Piper (2014:9) describes investigation to be:

... worth noting that in addition to sometimes attempting to find evidence that supports the allegation/hypothesis that a wrong did occur or that a particular person(s) or suspect(s) committed the wrong, it just as important attempt to search for evidence that supports that perhaps the ‘wrong’ never occurred or that particular person (the suspect) did not commit the wrong.

For the everyday person to understand a specific concept, the concept must be explained as to what it is, and then what that specific concept can offer the reader. The concept of investigation is explained as the research described it above, and to know what it can offer the objectives must be unpacked and understood as well. The objectives will be the selling point to explain what it can offer you and why. Whilst researching the topic of “objectives of investigation” as a generalised concept not referring to any specific type of investigation, the website (Investigation Tips setting objectives 28 October 2017) cites different books and quotes from other experts in the field of investigations and also noted the following as a summary, “Understanding the objectives of an investigation helps ensure that the investigation is carried out in an organized fashion and is focused on getting to the bottom of the issue.”

In 1995, the High Court expressed the acceptance of the fact that private and corporate investigations occur, as stated in *State vs Botha and other* (1) 1995(2) SACR598 (W), where the court ruled that the fact that a company's internal investigation department had conducted an investigation the alleged defrauding of its own pension fund was not improper. The court went on and referred to the fact that various institutions conduct their own investigations and then hand the evidence collected over to the authorities for the institution of prosecution.

“No investigation of any complexity can be successful without meaningful objectives. The investigations objectives define the fact finder's purpose, allow him to benchmark his progress, and provide the framework by which the project manager coordinates the effort to build his case” (Ferraro, 2012:13).

The key concept of investigation as part of this study was interrogated and examined to determine the different types of investigations as referred to in the study. The investigation and specifically the criminal investigation, forensic investigation and then the internal or disciplinary investigation were the concepts the study researched and interviewed participants on, to establish the differences and the understanding and objectives of each type of investigation.

Piper (2014:9) describe the definition of investigation as:

Most of the resources I checked to obtain a definition for the word 'investigation' utilise some of the same words or phrases, including detailed, systematic examination; fact-finding; truth searching and/or carefully looking for something hidden or previously unknown. All of the words combined would seem to adequately describe what an investigation means.

2.2.1 Criminal investigation

An explanation of the concept of criminal investigations is noted in the Forensic Investigation Legislative principles and investigative practice by Benson, Jones and Horne (2015:5-6) where it is stated that firstly for a crime to be committed, the action should be a crime as prescribed by law, and the investigation of crime is not a game or exercise in probability, but a systematic process of searching for the

truth about a specific aspect or incident, and collecting evidence with embedded scientific principles.

The literature research above by Piper (2014:9) and Benson et al. (2015:5-6), describes criminal investigation as a systematic approach to finding the facts or something hidden or previously known used or being part of a specific incident, to ultimately prove or disprove a hypothesis or allegation made that is set in legislation as a crime. In a different description or explanation of criminal investigation, Van Rooyen (2008:3) states that criminal investigation is no longer a tool only used by local law enforcement to control crimes and specifically violent crimes, but it instead became a process for achieving justice in all spheres of the population reaching public and private offices, uncovering illegal practices and exposing corrupt activities.

During this research and the interviews conducted, the question was asked “What is your understanding of criminal investigation?” and the participants had various understandings and opinions of what criminal investigations are. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer. The participants responded and explained their understandings of criminal investigation as follows:

- Four (4) participants said that it is the investigation of an incident with a criminal element.
- One (1) participant answered that it is the investigation of a specific charge or complaint.
- One (1) participant stated that it is court driven investigations.
- One (1) participant argued that it is the investigation of a matter with a criminal element that must be proven beyond reasonable doubt in a court of law.

The literature reviewed above refer to a process, and systematic approach to achieve justice regarding a certain or specific incident, whereas the participants

agreed in principle that it is a process and added that there is a criminal element with an end goal of prosecution in a court of law.

Once the study has established what the literature and the participants understand and explained as what criminal investigations are, the objectives of the criminal investigations should be established to know what it would be, and as the reason for being a key concept within this study.

2.2.2 Objectives of criminal investigation

Anon (2017:2) argues that the objectives of a criminal investigation can be defined “Because of the changing nature of criminal activity and the role of the investigator, the objectives of the criminal investigation may be more complex than people imagine. The objectives of criminal investigations as explained above are to:

- Detect crime;
- Locate and identify suspects in crimes;
- Locate, document, and preserve evidence of crimes;
- Arrest suspects in crimes;
- Recover stolen property; and
- Prepare sound criminal cases for prosecution.”

In agreement with Anon (2017:2) as stated above, Benson et al. (2015:12), describe the objectives of criminal investigation to establish that a crime has actually been committed, to identify and apprehend the suspect, to recover stolen property and to assist in the prosecution of the person(s) charged with the crime.

The following central themes are presented as the objectives of a criminal investigation by Benson et al. (2015:12):

- A systematic, organised search for the truth.
- Detecting crime.

- Identifying the crime.
- Locating and identifying suspects.
- Locating, recording and processing evidence while observing all constitutional considerations.
- Gathering objective and subjective evidence about an alleged crime incident.
- Discovering certain facts or ascertaining the existence of such facts.
- Arresting the perpetrator while observing all constitutional considerations.
- Recovering property.
- Preparing for trial, which would include the completion of accurate documentation.
- Getting the accused convicted by testifying and assisting in the presentation of legally obtained evidence and documents.

The participants were subsequently asked “What are the objectives of a criminal investigation?” and the responses were noted accordingly. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer. The participants all had different opinions of what the objectives of investigations are:

- Three (3) participants argued that it is the investigation of a criminal act with the legal process as an end result.
- One (1) participant said that the objectives are determined by the merits of the particular case.
- One (1) participant stated that guilt and a sanction is the objectives of criminal investigations.

Between the literature and the interviews of the participants, there is a link relating to investigating a specific matter to obtain a sanction at the end of the investigation or an outcome, but the literature is more comprehensive in the different objectives of criminal investigations. The literature has a more investigative procedure approach, with reference to the specific crime in question, the suspects, what exactly transpired and so forth as a process or guideline for the investigation process. Each process that is completed would be an objective as part of the entire investigation process with the different processes completed, and objectives reached.

This study is considering the investigation process and methodology utilised in the corporate environment, and the internal and criminal investigation remains two different investigations within the corporate environment that could be utilised to solve a specific case, crime or incident. With criminal investigations explained the concept of internal investigation should be explored to ascertain where the criminal investigation fits in, and the difference between the two types of investigations.

2.3 INTERNAL INVESTIGATIONS

De Achaval and Durrieu (2013:3) define internal investigation as the process followed to collect evidence or to pull together evidence to ascertain if fraud or internal misconduct is being committed by employees, prior to filing a complaint or instituting civil or criminal proceedings. It furthermore explains that internal investigations must be conducted to identify irregularities identified in an acceptable way, while ensuring that all processes followed are within the boundaries or confines of the Constitution and statutory rights at all times.

Cascarino (2013:221-222) describe the internal forensic department's duties and function to be that of providing advisory and consulting services, investigation of irregular conduct, determine the unlawfulness of certain conduct and practices, where the scope would also be to investigate crimes as well as irregular activities of a serious nature.

The explanation of internal investigation by De Achaval and Durrieu (2013:3) and the description from Cascarino (2013:221-222) about what internal investigation

entails, and the news headline referring to internal investigations requested to ascertain what transpired internally within Steinhoff, and who was responsible for the alleged or suspected fraud. The headline news now is the reported internal fraud related to the accounting records within Steinhoff, and the investigation to follow. Although the investigation would be conducted by, an external Forensic and auditing firm, PricewaterhouseCoopers (PwC) to determine what transpired and who was involved or responsible for the alleged internal fraud. "Steinhoff said earlier this week its supervisory board had approached accounting firm PWC to perform an independent investigation after information came to light suggesting accounting irregularities" (MSM Business Report, 06 December 2017).

According to Ferraro (2012:6-7):

... a workplace investigation is generally undertaken to learn something. The result is then used to prove or disprove an assertion, claim, or allegation. Thus, prosecution and litigation are a by-product of an investigation, not its purpose. Because of the ability to prove or disprove something, a properly employed workplace investigation can provide many dividends for the employer.

The participants interviewed in this study were asked: "What is your understanding of internal investigation?" This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer, and the five (5) participants had different viewpoints of their understanding as follows:

- Two (2) participants agreed that internal investigations were the investigation of incidents with a criminal element within a company.
- One (1) participant believed an internal investigation is the same as a criminal investigation only with a link within the company.

- One (1) participant stated that internal investigation is investigations where the burden of proof is based on a balance of probability and only directed at employees.
- One (1) participant described internal investigation as investigating internal policies and procedures and actions of employees as well as being independent and objective investigations.
- One (1) participant believed internal investigations were done to establish the veracity of a complaint to determine the way forward and determine if it would be an internal or criminal investigation process.

The literature reviewed (De Achaval & Durrieu, 2013:3) and the description from (Casarino, 2013:221-222) relating to the concept of internal investigations believes it is an investigation into something that transpired within a company. The business or organisation that conducts its own internal investigations, do it to determine what transpired, who was involved and what was the root cause and reason for the incident, and ultimately to correct the wrongdoing internally and to take action, whereas the participants interviewed had varied opinions. The participants stated that it is an investigation of an internal matter within an organisation, with some linking it to a criminal act, and others to the disciplinary process where the burden of proof is the balance of probability. The common denominator in the research is that it is the investigation of an incident or matter that happened within an organisation that is or must be investigated to ultimately act regarding the incident.

The study, to contribute and add value to the key concept of an internal investigation, must ascertain what internal investigation is and what the objectives are of internal investigations to fully understand the concept within the framework of this study.

2.3.1 Objectives of internal investigations

To understand the concept of an internal investigation, it is necessary for the purpose of this study, to understand the objectives of internal investigations, and

to ascertain the value that it is adding to the concept, as with every concept there should be an objective with the concept. This research was done to determine exactly what the objectives is of internal investigations.

The corporate environment in South Africa all operate to make money and the specific business they are operating in is the way they are making their money. This concept forces them to ensure that everything that is done within the business should have an objective or a purpose and it must be within the objectives of the specific business. The same would apply to an aspect such as internal investigations, where it should have specific objectives as set out by the respective company. In explaining the purpose of an internal forensic department within an organisation, Cascarino (2013:221) argues that the overall mission is to objectively and fairly conduct investigations of significant incidents within the specific organisation.

The objectives of internal investigation as described by Ferraro (2012:13) must be that the investigation objectives must be carefully articulated at the beginning of the process, for they establish the investigations starting point and where it is intended to finish, and furthermore state that no investigation of any complexity can be successful without meaningful objectives.

There is no reason why a victim organisation is prevented from taking internal disciplinary action against an employee, as soon as a case can be made on a balance of probability. The same reason an organisation should not continue to employ a criminal and or wait for a long and tedious process of bringing him/her before the courts take place (Carlston (b), 2011:10). Whereas Volker (2011:122) also states that the internal disciplinary process is, in theory at least, the simplest. It usually does not involve legally trained professionals and should rely on the inherent fairness of the process. The case must be proven on a "balance of probability," which could be colloquially translated as "more likely than not." The presiding officer is usually a member of management, the initiator (internal prosecutor) is also part of line management. The employee has the right to call any witnesses and to appoint someone to defend him or herself.

The research and literature reviewed of Ferraro (2012:13) and Volker (2011:112) above regarding the internal investigation process agree in essence that the process can be done quickly and efficiently, as the evidence gathered should only prove on a balance of probability that an employee transgressed irrespective if it is a criminal offence or a case of misconduct. However, the correct process should still be followed as prescribed in the different or relevant legislation and company policies and procedures. For example, when an employee is charged for misconduct such as being under the influence in company uniform and he disgraces the company brand or name in public or on social media, he can be charged for various charges as would be stipulated in the company disciplinary code, the same would be if he is charged with a criminal offence such as fraud or theft, the process can be done without the criminal process being completed or even reported.

From the responses of the participants in this study, where they were asked the question during the interviews on “What are the objectives of internal investigation?” there was an array of objectives of internal investigations with very little agreement by the participants. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer. Individual participants describe the objectives of internal investigations as follows:

- Three (3) participants agreed that the objective was to ensure that a similar event does not re-occur in the future or prevention of having the same incident from happening again.
- Two (2) participants believe that the objectives are to minimise internal risks.
- Two (2) participants stated that it is to determine what transpired regarding a specific incident.
- One (1) participant said that investigation on its own merits is an objective.
- One (1) participant stated to ultimately get a dismissal and remove the employee from the system.

- One (1) participant stated by enforcing ethics and the 80/20 principle with 80% being preventative and 20% being reactive objectives.

The literature reviewed above is clear and concise about the internal investigation objectives in that it is to determine what transpired within the entity or organisation, and to deal with the situation on a balance of probabilities within the legal framework. In the responses from the participants there are very different opinions regarding the objectives and some agreements regarding the internal process of dealing with the matter internally through a process to possibly correct and rectify the system and simultaneously removing the employee involved from the organisation. The other feedback from the participants is focused on a more strategic objective focusing on prevention and correcting the system where there were deficiencies identified in the internal investigation.

This study focused on criminal and internal investigations within the corporate environment, and one other concept is the forensic investigation that has been linked to internal investigations in recent years and should be interrogated to determine if there is a link to the internal investigation process and what the objectives would be of forensic investigations.

2.3.2 Forensic investigations

Forensic investigation as a key concept in this study and being part of the internal investigation process in the corporate environment in South Africa was researched to establish and determine what it is, and what the objectives would be of forensic investigations.

Van Rooyen (2008:14) argues that “Although dictionaries differ slightly in their definition of the word ‘forensic’ the true meaning is two folded.” Firstly, it refers to ‘courts of law, juristic or court directed’ and relating to the ‘application of science’ to decide questions arising from crime or litigation. Secondly, it includes the function of “examination or analysing.” In agreement with the science part of Van Rooyen’s argument, Benson et al. (2015:2), describe Forensic Investigation as involving more than mere investigation of crime and is firstly a recognised science in its own rights. They furthermore mention that during the course of the forensic

investigation the natural science may play a role in solving the crime such as DNA, but the human science may also feature and play a role.

Between Van Rooyen (2008:14) and Benson et al. (2015:2), they describe forensic investigation as a two-fold concept with reference made to the investigation process through the courts or litigation process, and then the application of science within the investigation process. In more detail of the actual matters that resorts under the duties or investigation functions of a forensic investigator, Goss (2016:2) states that the forensic investigator should investigate, prevent and detect and assist in the resolving of commercial offences such as fraud and corruption. Goss (2016:128) explains that “forensic auditing and investigation of fraud is the task of gathering and analysing data (information and evidence) from various data sources and drawing inferences from the relationship between these data sources, combined with witness evidence.”

This study made provision to interview participants as identified in the sample, and they were asked: “What is your understanding of forensic investigation?” with five (5) participants providing answers or their understandings of the concept. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer. From the five (5) participants there were six (6) different descriptions or explanations of forensic investigations provided as follows:

- Two (2) participants indicated that it is the scientific and non-scientific methods utilised to conduct investigations.
- Two (2) participants stated that forensic investigation was the same as criminal investigations.
- One (1) participant stated that it is the investigation of incidents with a criminal element.
- One (1) participant stated that it is to find evidence for both internal and external prosecution in one investigation process.

- One (1) participant explained it as a process followed by human factor and experts.
- One (1) participant stated that it is the primary investigation function within the internal investigation process.

Between the literature reviewed of Van Rooyen (2008:14) as well as Benson et al. (2015:2), and Goss (2016:2, 128) and the feedback from the participants, there is some agreement with regards to the two key features of forensic investigations in that it is investigation processes, and the scientific and non-scientific methods by human and expert factors. The participants have different views or interpretations of the concept of forensic investigation referring to it being the same as criminal investigations and investigations with a criminal element and then forensic investigation being an investigation that would cover both the internal and external evidence collection in one process.

To understand a specific concept is one thing, but understanding a concept is not defining it completely if the objective is not defined and understood as well. This study defined the concept of forensic investigation through a literature review and the interviews with the participants, and the same procedure was followed with the objectives of forensic investigations.

2.3.2.1 Objectives of forensic investigation

The term “objective” is defined in the free dictionary on the internet (28 October 2017), as “something that one’s efforts or actions are intended to attain or accomplish; purpose; goal.” To understand the objectives of forensic investigation, the research must establish what the goal, purpose and the intended outcome or intended end result must be. To add to the dictionary explanation or definition of objective, Ferraro (2012:13) states that the objectives of the investigation define the fact-finding purpose, and to monitor, track progress and set a benchmark and framework to ultimately build a case from start to finish.

Pedneault (2009:181) state that the objectives of forensic investigation would be “based on a successful initial meeting and the determination of prediction, the next step would be to identify how the goals and objectives will be accomplished”. Pedneault (2009:181) further explains that the objectives of the forensic

investigation will determine what direction, the investigation will go, what steps will be performed and in what order, as it is all determined by the objectives.

Singleton and Singleton (2010:13) define what a forensic investigation is, and the objectives of it as “Fraud investigation usually encompasses about the same thing as fraud audit except investigation typically involves a lot more nonfinancial evidence, such as testimony from interviews, than a fraud audit.” Singleton and Singleton (2010:13) are in agreement with relation to the audit part of their opinion with Cascarino (2013:181, 203), where it is agreed that the “fraud auditors, both accountants and non-accountants, have a primary focus on the internal control structures to prevent fraud and offer early detection,” and furthermore explain that fraud investigations are “intended to resolve fraud allegations from inception to disposition.”

The participants were asked “What are the objectives of forensic investigation?” and the participants had various explanations or understandings of the objectives. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer as follows:

- Two (2) participants stated that the objectives are a combination of being factually correct, presenting findings and recommending corrective measures.
- Two (2) participants stated that the objectives are to gather facts about an incident, not just crime.
- One (1) participant stated that an objective is to ensure a guilty finding and sanction.
- One (1) participant stated that the objectives are determined by the matters own merits.
- One (1) participant stated that to find the truth about the incident and then to report on the findings and institute corrective measures.

The literature review above explained that an objective is to determine the outcome through the framework, goal and purpose, and the objectives of forensic

investigation as explained by Cascarino (2013:181, 203), Pedneault (2009:181) and Singleton and Singleton (2010:13) state that the internal forensic function is a preventative tool or resource, and after the fact a reactive process to ascertain what transpired and the process to follow to get to the conclusion of what transpired. The objective of each investigation as described by Pedneault (2009:181) will determine the direction the investigation will go, and the different steps to take as set by the respective objective. The participants, however, stated that the respective investigation determines the objectives of forensic investigations, to ensure a successful conclusion of the investigation, gather the facts, report, and prevent it from happening again within the business the participants represent.

Once an investigation is concluded and the investigation team has made the outcome or proposed recommendations, a possible next step could be civil litigation.

2.4 CIVIL LITIGATION

Civil litigation as described in the Glossary (2015:440) as the process involving “a legal dispute or other matter in a civil court of law, through the institution of legal proceedings by one party against another,” whereas Ferraro (2012:91) believes from all the investigation outcomes, restitution is the one least considered by employees.

This author (Ferraro, 2012:91) furthermore argues that it is a process where the restorative justice is aimed at fixing the damage done by the perpetrator and the damage to the victims, and at the same time serves as a form of rehabilitation.

Piper (2014:36) summed up what the Glossary (2015:440) state above by arguing that a civil investigation will not result in anybody being sent to prison or jail but can result in a financial judgement against the suspect, and the burden of proof is by the preponderance of the evidence.

The literature consulted in this regard by means of Ferraro (2012:91), Glossary (2015:440) and Piper (2014:36) refer to the civil litigation process as the process to claim or earn restitution from the accused as the objective, for the damages inflicted or suffered because of the action of the accused or perpetrator. This

means that over and above the criminal and internal process, the company can follow to ensure the suspect or perpetrator is charged and disciplined, the company can institute civil litigation against the suspect for the damages suffered. The civil litigation process does not include the insurance claim for the losses if the company is covered by liability cover or insurance meaning covered against internal employee fraud.

The process to follow is different from the criminal process, but a court of law must also make the decision on the evidence presented by both parties to award or deny the restitution for damages claimed by the complainant. In South Africa, the legislation provides for a formal process where the state can act on the complainant's behalf or for the complainant in the process of Asset Forfeiture where the aim is to recover the monetary value accumulated through the proceeds of crime, as prescribed in the Prevention of Organised Crime Act (POCA, 1998).

For this study, the researcher interviewed participants, and the question was asked "What is your understanding of civil litigation?" and the participants responded as follows:

- Three (3) participants explained that they understand the process as being the recovery of internal losses suffered by the company because of actions by an employee.
- Two (2) participants explained it as the internal recovery of losses process.

The comparison between the literature reviewed by Ferraro (2012:91), Glossary (2015:440) and Piper (2014:36) is that all the literature refers to civil litigation as the process of restitution or recovery of losses incurred within the corporate environment. The participants in this study confirmed and agreed with the literature on the recovery of losses suffered as a result of some action by employees.

This study interrogated and analysed the different investigation methods, in criminal, internal, forensic and the civil litigation processes to ascertain what it is and the objectives, to ultimately understand the methodology utilised by the

corporate companies in South Africa when initiating internal investigations. Further to the different investigations as identified in the study, the main differences should be established to determine if there is any links or similarities in the different types of investigations. Hence, the main difference between criminal, forensic and internal investigations will be discussed.

2.5 MAIN DIFFERENCES BETWEEN CRIMINAL, FORENSIC AND INTERNAL INVESTIGATIONS

The main or key differences between the three types of investigations can only be determined by examining the different definitions or descriptions and their respective objectives, as there is no real literature that defines the difference between the three forms of investigations. From the literature review above, it is clear that an internal investigation is an investigation that is not only or specifically focusing on crime as stipulated by law but focusing on any violation of company policy or procedures and or criminal activity by an employee, as explained by De Achaval and Durrieu (2013:3) and the description from Cascarino (2013:221-222). The internal investigation would then focus on the action of the employee in an attempt to present the evidence in an internal process for conclusion and judgment and implementing corrective measures.

Whereas the criminal and forensic investigations according to the literature, Benson et al. (2015:5-6), Ferraro (2012:6-7) and Piper (2014:9) as well as criminal investigation, Benson et al. (2015:2), Goss (2016:2, 128) and Van Rooyen (2008:14) and describing the concept of forensic investigation. A criminal investigation would be the investigation of crime, for example, a case of vehicle theft where normal and old-fashioned investigation techniques are used to solve the crime, including the use of informants. In contradiction to the old-fashioned way of investigation, the forensic investigation process includes a more scientific approach, through multiple resources and skill set combined in more in-depth and detailed investigation techniques used to solve a crime or ascertain what transpired, such as a procurement fraud scheme where fictitious invoices were created and used to defraud a company and employees and suppliers collude to the detriment of the company. In the example of a forensic investigation different skill sets and resources would be used to prove the sequence of events and to

connect the perpetrators to the specific crime through handwriting analysis, computer forensics, use of data analytics and CCTV footage to name just some of the different techniques and skills.

The participants interviewed in this study were asked “What is your understanding of the main differences between the three types of investigations namely internal, criminal and forensic investigation?” and it produced different findings and opinions. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer. The participants had different opinions and explained it accordingly:

- Three (3) participants explained it as one process including all three processes (criminal elements, internal matters and forensics) where evidence is collected and presented in the different forums based on the same evidence.
- One (1) participant stated that each case should be handled on its own merits.
- One (1) participant explained that it is case-specific type investigations.
- One (1) participant described it as being a different sanction or outcome based on the same evidence collected.

According to the research conducted for their publication, Benson et al. (2015:18-19), summarised the difference between criminal and forensic investigation and common features as follows:

... based on the information received from reviewed studies, there is no clear distinction between concepts ‘criminal investigation’ and ‘forensic investigations.’ The concept ‘criminal investigation,’ however, only covers investigations of a criminal nature. While forensic investigations can also include civil or administrative investigations.

According to Benson et al. (2015:18-19), criminal and forensic investigations share the following common features:

- They commence after a crime has been committed or irregular conduct is reported or detected.
- They result in a systematic and organised investigation process in order to search for the truth.
- They focus on discovering, collecting, preparing, identifying and presenting information and evidence in order to resolve or find a solution to a reported crime or incident.
- They involve the application and use of different investigation methods and techniques during the investigation process.
- They result in the presentation of the results of the investigation, whether in a court of law for criminal, civil or administrative proceedings, or at a disciplinary hearing.”

The main differences between forensic and criminal investigations as described above by Benson et al. (2015:19), are as follows: Criminal Investigations = case of criminal nature; whereas, Forensic Investigations = criminal, administrative and civil in nature. According to this study thus far, Internal Investigations = criminal, administrative and civil in nature within a business environment, conducted by internal or external investigative resources. The study identified the different types of investigation and their respective objectives and hereafter company’s objectives with an internal investigation will be discussed.

2.6 COMPANY’S OBJECTIVES WITH INTERNAL INVESTIGATIONS

The objectives of internal investigations for a company would differ from company to company due to the fact that South Africa does not have any legislation that governs such a process or provide a legal framework to stipulate the objectives. Firstly, the diverse range of entities or business in South Africa is too wide to have a specific objective that would be the same for all.

However, there should be a common thread throughout any and all companies, as it would be to protect the company, its people, assets and future sustainability.

Some small to medium enterprises do not have the capacity for such internal departments and cannot afford it either.

An internal investigation department may be an expense and not one some companies can afford, where there are resources such as time, people and equipment that all cost money and influence the company's bottom line. Whereas such departments can also be a profitable department depending on the effectiveness of the department, but it takes a lot of time, effort and planning to get an internal investigation department to become profitable or self-sustainable at least.

Carlston (2011b:5) explain the importance of a well thought out policy as a key ingredient to the organisations White Collar Crime approach and setting out the role and responsibilities for each employee lead by all levels of management that must set the example. Carlston (2011b:5) further explains the aim of such a policy is to emphasise the commitment to the fight against White Collar Crime, setting out the guidelines and procedures for dealing with it and the measures to prevent it in the first place.

The objectives of internal investigations as stated and explained by Carlston (2011b:10), Cascarino (2013:221), Ferraro (2012:13) and Volker (2011:112) could be to make sure the company and its personnel comply with the company policies and procedures as well as the code of conduct, and related legislation of the country, but the objectives of internal investigation could be different outcomes for different companies', and the research should reveal the different objectives of the companies within the sample group. Employees that conduct internal investigations for or on behalf of their employers might have a different view of the objectives. Although the employer would make it clear as to what they expect from them and the employee will follow such instructions, but personally, they might differ as there are different views on the conclusion of an internal investigation.

According to Carlston (2011b:10), Cascarino (2013:221), Ferraro (2012:13) and Volker (2011:112) the objective would or could drive the way the evidence is collected, preserved and ultimately presented in a forum, such as a disciplinary enquiry, and that process would differ from the evidence collected, preserved and

presented in a criminal of forensic investigation that would be presented in a court of law at the end of the day. For example, the internal enquiry would only require evidence to prove on a balance of probability that a person or employee contravened a policy in order to find him guilty and possibly dismiss the employee. However, in a criminal prosecution, the evidence must be collected in such a way that it would be admissible in a court of law, and it must prove beyond a reasonable doubt an accused committed the offence charged for. An employee conducting an internal investigation would want to ensure the employee is both criminally and internally charged, but his employer would only allow for the internal process due to their different objectives with an internal investigation or their internal policy on what would suffice as a successful conclusion of an internal investigation.

The employee is usually terminated from his position and moves on to new company until the same thing happens all over. For many organisations, this migration of the fraud risk to a third party is seen to be 'not my problem' as long as the perpetrator no longer works for their business. Indeed, some organisations see such a movement as to their advantage (Cascarino, 2013:11).

To ascertain what the objectives would be for the corporate environment in South Africa when conducting an internal investigation, the researcher interviewed a sample group that is the best suited to provide a holistic view of the different approaches and methodologies followed and the question was posed "What is the company's objectives with internal investigation?" This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer. The participants had different views of what their respective employers would define as the objectives of internal investigations:

- Three (3) participants stated it would be to prevent, detect and investigate wrongdoing within the business and identify control weaknesses.

- Two (2) participants stated that it would be to institute corrective measures.
- Two (2) participants stated that it is to get the suspect out of the system and prevent re-occurrence through corrective measures.
- Two (2) participants stated that it is to protect the shareholders' interest.
- Two (2) participants stated that it is to identify weaknesses in the system to correct them.
- One (1) participant stated that it is to ensure all employees comply with company policies, procedures, and ethical culture from within the company.

The participants representing their respective companies and taking part in this study described their employers' point of view regarding their objectives with internal investigations. The participants' responses are summarised in Table 2.1 below:

Table 2.1: The different company objectives as explained by the participants

RESPONSE FROM PARTICIPANTS	COMPANY 1	COMPANY 2	COMPANY 3	COMPANY 4	COMPANY 5
To prevent, detect and investigate.	1	1		1	
To protect the shareholders' interest.	1				1
To get suspect out of the system.		1	1		
Identify weaknesses in the system and to correct them.		1		1	
To ensure employees comply with policies and procedures, and the ethical culture.			1		
To institute corrective measures.			1	1	

(Source: Feedback from participants)

Three companies (numbers 1, 2 and 4) have the same objectives and aim to prevent, detect and investigate matters internally, and two (2) companies (numbers 2 and 3) have the objective to remove the suspect employees from their employment, and two (2) companies (1 and 5) noted the objective to protect the shareholders interest.

The other factors listed are individual objectives that indirectly ties in with the first two (2) companies to prevent, detect and investigate and ultimately protect the company or shareholders, identify weaknesses to address them and then lastly to ensure employees comply with policies, procedures and the culture of the company. The common denominator in the responses from the participants is the protection of the company through internal investigations, but none of the participants referred to any prosecutions or civil litigation as an objective by their respective employers. The participants explained what their respective employer's objectives are, and hereafter the procedures to be followed when conducting internal investigations.

2.7 PROCEDURES FOLLOWED WHEN CONDUCTING INTERNAL INVESTIGATIONS

Ferraro (2012:25) argues that most workplace investigations unfold incrementally. That incremental yet dynamic process is called the process of investigation. The process includes seven (7) distinct phases. They are:

1. Assessment.
2. Planning and preparation.
3. Information gathering and fact-finding.
4. Verification and analysis.
5. Decision-making.
6. Disbursement of disciplinary and/or corrective action.
7. Prevention and education.

Every workplace investigation requires the investigator to structure his or her investigation such that it "systematically contemplates each phase" as stated by

Ferraro, (2012:25). Volker (2011:109-110) explains it differently, by having a different approach as follows: “When fraud occurs, action must be taken. Some action must be initiated immediately, others can wait.” The sequence, however, is crucial, especially for the initial steps.

Volker (2011:109-110) list and discuss the recommended eight-part action plan designed to minimise the damage and maximise the positive result of your remedial action, as follows:

1. Shut the door.
2. Safeguard evidence.
3. Consult your fraud investigator.
4. Consider suspension.
5. Commence your formal investigation.
6. Consider punitive measures.
7. Notify your insurer.
8. Implement preventative measures.

When researching the best process to follow or process to follow when conducting an investigation or internal investigation, there are no authors that agreed to a specific step-by-step approach. However, there is some overlapping in the process, and Van Rooyen (2008:87) believes:

Forensic investigations must have meaningful and well-defined objectives, be properly and lawful executed, be fair and impartial, and the results accurately documented and communicated. In order to be effective, the investigation must unfold incrementally and progressively in distinct steps. Each progressive step is engineered to build on the steps that preceded it.

Collectively, these steps are called the ten steps of an investigation as provided by Van Rooyen (2008:87). They include:

1. Receiving of assignment of allegation.
2. Agreement.
3. Preparation and planning.

4. Information gathering.
5. Verification and analysis.
6. Documenting evidence.
7. Legal proceedings.
8. Determination and disbursement of disciplinary or corrective action.
9. Prevention.
10. Application of human behaviour knowledge.

The literature reviewed by Ferraro (2012:25), Van Rooyen (2008:87) and Volker (2011:109-110) all discussed different steps and processes as listed above. To ensure this study covers all the bases, the researcher interviewed the identified sample group to establish the different processes followed in the corporate environment in South Africa.

The participants explained the different aspects that should be considered when following a process to conduct internal investigations, as the question was asked during the interviews “What is the procedures to follow when conducting an internal investigation in the corporate environment in South Africa?” and the responses were recorded accordingly. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer:

- One (1) participant stated that it is the same procedure for every company with different actions or internal limitations.
- One (1) participant described it as an internal process with IR (Industrial Relations) that decide on the process.
- One (1) participant stated that it was a process of interviews, collecting evidence, reporting and recommendations.
- One (1) participant stated that it is a 3-step approach with internal, internal together with external, and then

just an external process to get or reach prosecution whether internal or external.

- One (1) participant stated that it is an evolving process with technology and the modus operandi determining the process, as well as the information and evidence determining the process.
- One (1) participant stated that the process was described as a process to determine the validity and veracity of the matter through the evidence.

The participants in this study all described different processes and procedures to follow when conducting internal investigations, with no agreement between the participants at all. There is also no detailed or exact step by step process provided in the responses, as it basically boils down to the specific case at hand, where the participants referred to the case, the modus operandi, technology, determined by the evidence, or the process being managed by IR (Industrial Relations – Human Resources) function.

With no clear and obvious procedure identified by the participants, more literature was reviewed to possibly verify any of the steps or processes mentioned by the participants, and Cascarino (2013:203) describe the investigation process to entail the following steps:

- Obtain evidence;
- Investigate fraud.
- Taking statements.
- Writing reports.
- Testifying.

Goss (2016:128-129) describe the investigation process as a 6-step process in:

- Receiving and responding to allegations.
- Groundwork and planning.
- Interviewing.

- Collecting, handling and reviewing documents.
- Supporting the resolution and litigation process.
- Administering the investigation project file.

Another six (6)-step approach, as explained by Singleton and Singleton (2010:8) is as follows:

- Acquire all details and documents about the allegation.
- Assess the allegation against the documentation.
- Assess the corporate environment relative the suspect.
- Establish a fraud theory; determine if there are motive and opportunity.
- Determine if the evidence makes sense, test of business reality.
- Communicate with relevant parties on details and status of fraud.

From the initial literature review of Ferraro (2012:25), Van Rooyen (2008:87) and Volker (2011:109-110) with the responses of the participants, as well as the subsequent literature review of Cascarino (2013:203), Goss (2016:128-129) and Singleton and Singleton (2010:8), there is no clear and definite process to follow when conducting internal investigations, although there are some similarities in some of the steps, no clear process can be determined from the review. Hereafter the coinciding with the internal, criminal and civil investigation processes working together as one process will be addressed.

2.8 INTERNAL, CRIMINAL AND CIVIL INVESTIGATION PROCESS COINCIDE AS ONE PROCESS

Carlston (2011b:8) believes an internal company policy dealing with White Collar Crime should address what type of incidents should be reported (internally and externally where applicable) and include other crime or incidents such as, robberies, burglaries, fraud, fires, sabotage and breaches of safety rules should all be specified in the policy. In agreement with Carlston (2011b:8) above, Cascarino (2013:221) argues that where there are suspicions of fraud within an organisation it is not uncommon to establish their own forensic investigation function, where the skill set should be a combination of audit, information technology and criminal investigation skills to ultimately provide objective and fair investigation of incidents within the organisation.

An example of the three aspects being dealt with in one could be where an employee committed fraud internally by manipulating the internal processes for his own personal gain, and the detriment of the company. The company would investigate the matter internally and discipline the employee and most probably dismiss him for fraud. A criminal case would then be registered with the SAPS as required by law if the value is over R100 000.00 to prosecute the former employee criminally, and ultimately and separately the company can institute civil litigation to recover the losses from the former employee. Thus, all three aspects would be dealt with in one investigation, as they all will be dealing with the same evidence but presenting it in the three different forums (disciplinary hearing, criminal court, and civil court) to prove or state their case in three different manners. There is no set procedure for this process as it will all depend on the case at hand, and the evidence and resources the investigator has at his disposal.

Biegelman and Bartow (2012:360) wrote that:

For a business, there may be no more disruptive and challenging event than prosecuting a civil fraud claim against former officers and directors who have defrauded the company. The challenges are numerous and substantial. First, the company must conduct an internal investigation to determine what occurred and decide what, if any, communication must

be made to governmental agencies, including law enforcement agencies, about the relevant events. Then the company leadership must decide what steps are to be taken to pursue compensation from those former insiders who committed fraud. Although the principle decision-maker will almost certainly want to pursue recovery of any funds that the wrongdoer may have stolen, executing that decision can be difficult and disruptive to ongoing business.

In researching the three processes to determine if there is any previous research conducted where the three aspects were discussed and analysed to provide a conclusion or recommendation on how it should coincide, no research could be found for the three specific aspects in one discussion. This resulted in this research being conducted and the participants viewpoints on each of the respective processes (internal, criminal and civil) as well as their interpretation and their experience regarding the link or nexus between these processes in the best interest of the corporate environment in South Africa was obtained.

Carlston (2011c:49) describes the process step-by-step and thus ensuring that all the bases are covered in case of an incident, whether it is White Collar crime or any other crime within the corporate environment in South Africa. Carlston (2011c:49) further states that “Clearly any contingency plan must be consistent with the organisation’s policy.” Although this document concentrates on the response to White Collar Crime, the plan could be written to encompass all serious crime. The purpose of a crime response plan is to enable the organisation to take prompt and effective action to:

- Put in place immediate and appropriate damage control measures;
- Investigate and secure the evidence so that any subsequent internal disciplinary or civil or criminal action in the courts will succeed;
- Minimise the risk of subsequent losses;
- Improve the chance and scale of recoveries;

- Reduce the adverse commercial effects;
- Make a clear statement that the organisation is not a soft target for crime;
- Minimise negative or adverse publicity;
- Identify any lessons for the future in respect of improving the organisation's defence against white collar crime;
- Make recoveries from otherwise unattainable sources such as pension monies due to the perpetrator; and
- Consider the insolvency alternative in order to take advantage of the insolvency investigation, interrogation and, other extraordinary powers granted to liquidators.”

All businesses or entities have a legal obligation of self-reporting according to the provisions of The Prevention and Combating of Corrupt Activities Act No 12 of 2004, as Section 34 imposes a duty on a person in a position of authority to report corruption fraud, theft, forgery and uttering to the police, where there is reason to believe that the crime as mentioned involves a value of R100 000.00 or more. The conditions under which this duty to report arises can further be specified as follows:

- Defines or set a list of classes of possible people that could be considered to be in a position of authority, and includes, for example, managers, secretaries and directors of companies and or any other person responsible for the overall management and control of the business of an employer.
- Whether a person has actual knowledge can be proved in a number of different ways and may be inferred from the proven facts.
- In broad terms, the Act imputes knowledge to a person if another person occupying his or her position

and also having his or her particular knowledge, skill and experience, would have known or suspected that the offence had been committed.

- The obligation to report is not limited to the corruption offences created in the act but includes the common law crimes of fraud, theft and forgery, and uttering.
- No obligation to report is triggered for offences involving less than the amount stated above.
- The report must be made to the police, and the act and its regulations prescribe the manner in which the police should deal with such report.

Any person who fails to make such report in terms of the section of the act is guilty of an offence and liable on conviction to a fine or imprisonment for up to 10 years. With the provisions of the Act and the obligation to report, there should be some nexus between the internal, criminal and civil investigations and procedures now that the company is forced to report the matter to the police. Should the police investigate the case, they will obtain the relevant evidence from the company, but it would be beneficial to have it ready and only to hand it over to the SAPS for further investigation.

The research conducted and feedback from the participants when the question was asked during the interview “How can internal, criminal and civil investigation coincide as one process in the corporate environment in South Africa?” during the interviews. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer, and their responses were as follows:

- Three (3) participants stated that it is to set internal process with IR (Industrial Relations within Human Resources).
- Three (3) participants also stated that making it as one process together.

- Three (3) participants stated that it is one process, with the same evidence but different end result or judgements.
- Two (2) participants stated that it is to detect, prevent and investigate.
- One (1) participant was of the opinion that Fraud Examiners (CFE's) know all three processes or types of investigations.
- One (1) participant stated that all the evidence collected should be accepted by all three court or prosecution processes.

The literature reviewed of both Carlston (2011b:8) and Cascarino (2013:221), refer to the practice that is not uncommon for businesses to have or appoint internal forensic investigation departments. Biegelman and Bartow (2012:360) also confirm that it is essential to conduct internal investigations when the need arises.

The Prevention and Combating of Corrupt Activities Act (No 12 of 2004) recall that there is a duty in the company to report suspected fraud and or other crimes as set within the act with a value or suspected value of R100 000.00 or more to the SAPS. This forces the business environment to have internal investigation capabilities of some sorts to detect and report such internal crimes. The participants responded and referred to the different processes to coincide in one, as the evidence is basically the same, although it can be used in any form of judicial process, whether internally or externally if it is collected correctly, and that the Human resources department should also play a role in the process.

This study focused and interrogated the internal investigation processes, if and how it should be able to work or be done, to support the research the value should be determined. If there were no added value for an internal investigation in the corporate environment in South Africa, then it would not be worth doing or having, so the research is focusing on the value of internal investigations if any.

2.9 THE VALUE OF INTERNAL INVESTIGATIONS IN THE CORPORATE ENVIRONMENT

Internal investigations and the value it adds to the company would probably differ from company to company, as there could be a monetary value or a preventative value. For example, the internal investigation department within the insurance industry would add value to their internal investigation team that would prevent fraudulent death benefit claims from being paid out, that could amount to millions per annum. Whereas the internal investigation department in the construction industry would not prevent such a high value of losses (preventing actual financial losses due to criminal activity), but the preventative value in setting or implementing corrective measures in the procurement or tender process could add a potential value or estimated losses that could have been prevented. To establish what monetary value an internal investigation department or investigation can add to a company would be nearly impossible to quantify, although the benefits could be determined in other ways.

Pedneault (2009:171) is of the opinion based on his experience that there are three different types of investigation namely proactive, discovery and supportive investigations. He argues that the different types of investigations within an organisation would have different objectives and benefits as the proactive fraud investigations would be to identify, measure and testing compliance within the business and to establish policies, procedures or internal controls. The argument would be that the value the internal investigation can add to the business through the different means of investigation as stated by Pedneault (2009:171).

Ferraro (2012:2) agrees with Pedneault (2009:171) and add to the argument that:

... because a workplace investigation is generally undertaken to learn something. The result is then used to prove or disprove an assertion, claim or allegation. Thus, prosecution and litigation are a by-product of an investigation, not its purpose. Because of the ability to prove or disprove something, a properly employed workplace investigation can provide many dividends for the employer, in addition to uncovering facts and essential information needed to solve problems, a successful investigation helps restore order. It provides the employer with the

opportunity to analyse process and system failures and re-engineer them to prevent future problems.

The research by both Ferraro (2012:2) and Pedneault (2009:171) identified the value of internal investigation as being a primarily preventative value, which ultimately impacts the bottom line of the business from a financial point of view. Whereas the actual success rate or conviction, dismissal or recovery rate is not mentioned in any of the literature reviewed in this regard. Having dismissed somebody, or successfully prosecuting a former employee and recovering the losses all have different advantages and value to the business, it appears from the literature that what was learned or identified as deficiencies in the system is the most valuable part of the process, to ensure the corrective measures is put in place to prevent the same from happening again.

Van Rooyen (2008:85) also adds on to the literature cited above, in that he believes:

Forensic investigators have become a vital part of any organisation's personnel structure. It can no longer be perceived as just an "add-on" or necessary nuisance to business. Organisations and businesses have to protect and minimise their risks investigations is a prerequisite to this responsibility.

As with everything in life, no two people will always agree on the value of anything especially if there is no exact monetary value to calculate it, and the same applies with the value of a department within a corporate environment in South Africa. The participants were asked the question "What is the value of internal investigation in the corporate environment in South Africa?" during the interviews. This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer. The participants interviewed in this study also do not all agree specifically to the value of internal investigations in the corporate environment and describe the value differently, and in their own perspective of what value-add service it is, as follows:

- Three (3) participants stated that it is to be identifying risks to make corrections in the system.
- Two (2) participants argued that it is to institute culture change – moral and values.
- Two (2) participants said risk management, process and procedures.
- One (1) participant stated lost and recovery.
- One (1) participant noted prevention.
- One (1) participant stated, “to stop the bleeding” to minimise business risk.
- One (1) participant said that it is quick and effective.

The participants mostly agreed on the identifying of risks to make the corrections within the system, and then the risk management processes and culture change. It appears as if there is a focus on the internal processes and the company processes and culture to identify risks, although the participants focus on the internal processes there is some referring to the cost and speed and prevention benefit to the company internally. This study addressed the value of internal investigations according to the participants’ viewpoints and the literature available and hereafter the benefit by having both the internal and the forensic investigation policies coincide into one process for the specific corporate environment will be discussed.

2.10 BENEFIT OF HAVING BOTH INTERNAL AND FORENSIC INVESTIGATION POLICIES COINCIDE WITH ONE ANOTHER IN THE CORPORATE ENVIRONMENT IN SOUTH AFRICA

During this study and research conducted no real literature could be found that addresses the connection between forensic and internal investigations directly, and no or definitive overlap between the two activities, besides referring to both aspects as different methods with different objectives of the investigations in the corporate environment in South Africa. Two distinct aspects regarding the internal

investigation (paragraph 2.4 and 2.5) and the forensic investigation (paragraph 2.6 and 2.7) that should be considered at all times, whether it is one process or two totally different aspects, is:

1. The burden of proof with both types of investigation; and
2. The legal requirements relating to the evidence being accepted in an internal enquiry and for criminal prosecution.

These two aspects should guide both processes, and if for some reason the policies (if any exist within the business) do differ or is two totally separate processes some red flags should be raised, as the research showed that whatever the investigation process is called, they all would be about the same aspect, and much of the evidence would be used in all of the different investigations and objectives.

Fazekas (2011:37) asks the question about what organisations should be doing to manage their fraud risks. He explained or answered his questions by stating that as soon as boards of directors take the step forward and acknowledge that fraud control is a key stepping-stone to good governance and that it places the issue where it should be, and not just a requirement of compliance but also the key feature of good governance.

He furthermore explains that in the forensic arena prevention, detection and deterrence are normally used synonymously and creates some confusion about the specific focus areas. Fazekas (2011:37) explain or define the different roles in the cycle as follows:

- Prevention activities are intended to prevent the fraud from occurring.
- Detection activities are intended to uncover the existence of fraud that could not be prevented.
- Investigation is a systematic examination of facts surrounding the detected incident.

- Correction is the action of addressing the root causes of what allowed the fraud/s to occur and would include control improvements, sanctions and redress.
- Deterrence is the stopping of fraud even before it is attempted. This would be attributed to fear of being caught and punished as well as the difficulty aspect of perpetrating the fraud.”

With the provisions of the Prevention and Combating of Corrupt Activities Act, (No 12 of 2004) section 34 there is a duty to report certain crimes as stated previously. It would most probably be more beneficial to have the facts ready for when the matter is reported to the SAPS as stipulated, than having the SAPS conducting and investigating within the business. If the company conduct an internal investigation, it would be feasible to, at the same time collect the necessary evidence to comply with the provisions of the legislation to self-report while conducting the internal investigation. It could be saving time, effort and resources and ultimately cost for the business if it could be done simultaneously.

The participants interviewed in this study were asked the question “What is the benefit of having both internal and forensic investigation policies coincide with one another in the corporate environment in South Africa?” This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose.

Some of the participants provided more than one answer, and they responded as follows:

- Three (3) participants stated that it saves cost and time.
- Two (2) participants said it saves cost and recovery time.
- Two (2) participants noted prevention.
- Two (2) participants explained that it is to set a standard within one function.

- Two (2) participants stated more effective resources.
- One (1) participant stated to “stop the bleeding” to minimise business risks.
- One (1) participant stated to identify risks to make corrections in the system.

The participants referred to the benefit for the company to have the internal and forensic policies interact with one another to be a cost, efficiency, standard and more effective utilisation of the resources or department. The participants also identified the minimising of risks and corrections within the system as single benefits for their respective employers.

Further to the question of having the internal and forensic policies interact with one another, the question was asked: “Should there be a nexus between internal and forensic investigation in the corporate environment?” All five the participants in this study stated that there should be a nexus or link between the internal and forensic investigations in the corporate environment. The participants did not deviate or hesitate in the response, and it was noted to be clear and concise yes from all of them.

2.11 THE ADVANTAGES AND DISADVANTAGES OF HAVING A NEXUS BETWEEN INTERNAL AND FORENSIC INVESTIGATIONS IN THE CORPORATE ENVIRONMENT IN SOUTH AFRICA

With the research conducted on written literature, there is no written literature found about the advantages and disadvantages of having a nexus between the internal and forensic investigations in the corporate environment in South Africa that could be found for the purpose of this study. As part of this study the differences, benefits and value were researched and discussed at length to determine if there is value or benefit, and ultimately advantages to having the processes of internal and forensic investigation in one combined process and both the literature reviewed and the interviews conducted noted accordingly.

Actual literature about the advantages and disadvantages that could be found do not specifically address the topic directly, but merely point out the advantages of

either one of the aspects. However, Carberry and Deane (2016:1) is of the opinion that the benefits of an effective corporate internal investigation could be described or set out as follows: “under the right circumstances, conducting an effective corporate internal investigation protected by the attorney-client privilege can benefit the company in a number of ways as follows:

- Revealing all of the relevant facts so that management and/or the board can make a fully informed decision as to how best to proceed;
- Stopping the conduct to prevent further violations;
- Memorialising the company’s good-faith responses to the facts as they become known;
- Insulating management and/or the board against allegations of complicity; and
- Promoting a culture of transparency and compliance throughout the organisation”.

Carberry and Deane (2016:1) furthermore noted that each of these benefits could be achieved if the investigation is well designed with a specific work plan that addresses document collection and review, witness interviews, careful analysis, and periodic reporting in the format that best serves the client’s interests.

When conducting the interviews with the participants, the question was asked: “What is the advantages of having a nexus between internal and forensic investigation in the corporate environment in South Africa?” This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer. The participants responded and explained that the advantages would be:

- Three (3) participants stated to maximise resources.
- Three (3) participants stated collective effort to fight crime.
- Two (2) participants said a more holistic approach.

- Two (2) participants explained a better success rate.
- One (1) participant said one function.

The participants mostly agreed in the responses between the holistic approach or using the resources to the maximum as a collective effort for better results as one function. From the responses, it is evident that one function should be beneficial to the internal investigation environment in the South African corporate environment.

At the same time, the participants were asked the question “What is the disadvantages of having a nexus between internal and forensic investigation in the corporate environment in South Africa?” This was an open-ended question where the participants could provide their own answers to the question, and no choices were provided from which they could choose. Some of the participants provided more than one answer, and their responses were as follows:

- Three (3) participants said no disadvantages.
- One (1) participant stated possible favouritism.
- One (1) participant noted clouded objectivity.
- One (1) participant argued skill shortages (CFE’s).
- One (1) participant explained working in silos.

The participants did not identify many disadvantages but mentioned some aspects that might influence an internal investigation function within the business entity and identified two aspects relating to possibly being biased in the execution of their duties or work in silos, and one response about the skill shortage of qualified CFE’s.

The participants identified a lot more advantages for the corporate environment in South Africa than actual disadvantages, and with the background of the participants their experience and intimate knowledge of the internal investigation functions in the corporate environment, there must be an element of facts based from their experience.

2.12 INVESTIGATIVE METHODOLOGY USED WHEN INITIATING AN INTERNAL INVESTIGATION

Carlston (2011c:49) explains when initiating an internal investigation, it is prudent for any organisation to follow an investigative methodology or to have a Crime Response Plan, not only for White Collar Crime but also any other incidents in order to ensure quick and efficient response and action as a vital ingredient to the successful investigation. Carlston (Crime Response Plan, 2011:49 (c)) furthermore explains that there are specific aspects the Crime Response Plan should incorporate, immediate action on crime being discovered or suspected, an investigation within the organisation, external resources of assistance, SAPS, contact with the media and recovery of assets.

Biegelman and Bartow (2012:238) state that a best practice to follow for an internal investigation department would be to create and implement a specific investigation code of conduct, as the majority of companies have an employee code of conduct and not for the investigators. The code should entail how professionally the investigators should conduct themselves during the course of their investigations.

The processes to follow when conducting internal investigations was discussed within this study as described by the participants according to the instructions by their respective employers, together with the literature in this regard. The participants were asked the question “Which investigative methodology is used when initiating an internal investigation in the corporate environment in South Africa?” to ascertain the best practices to follow as a procedure in an internal investigation. The participants were asked this question in their respective personal opinions and not that of their employers to obtain their viewpoint of what would be the best practice. This was an open-ended question where the participants could provide their own answers to the question, and no choices were

provided from which they could choose. Some of the participants provided more than one answer, and they responded as follows:

- Three (3) participants said it is a step-by-step process.
- Three (3) participants stated to remain independent.
- Two (2) participants explained that knowing the business model and process.
- Two (2) participants stated independent and objective.
- Two (2) participants said that to cover all the bases (internal, criminal, forensic and civil litigation) for evidence to be accepted by all forums.
- One (1) participant noted to set internal and escalation processes.
- One (1) participant noted that it depends on where internal investigations fit in within the organisation and to whom in specific the department is reporting to.

The research conducted in this study to determine what the academia would describe as the methodology used when initiating an internal investigation in the corporate environment in South Africa was an eye-opening exercise as nothing could be found to address the specific question asked. The only research that can contribute is the interviews conducted with experts and experienced individuals that are best suited to provide an explanation or answer to the question raised. The participants identified the methodology used as a step-by-step process, where the internal investigation department must remain independent, objective and know the specific business and cover all the bases (internal, criminal, forensic and civil litigation) in one process. The responses from the participants are fairly similar in explanation, stating that there is some consensus in what methodology should be followed, even though there is no step by step process.

2.13 ADDITIONAL INFORMATION FROM THE PARTICIPANTS RELATING TO THE TOPIC

The participants were provided with the opportunity to provide additional information that might be relevant to the topic or the research and noted some pertinent aspects that could influence the methodology used when initiating an internal investigation in the corporate environment in South Africa. The following additional responses were received from the participants:

- One (1) participant said that, the King VI report that is insisting on making provision for CFE's within the corporate environment to assist with investigations, fraud risk and reporting to the board and shareholders.
- One (1) participant also mentioned that a proper whistleblowing system would allow for an anonymous platform to report internal fraud and wrongdoing to the business.
- One (1) participant stated, that together with an up to date code of conduct allowing for zero tolerance towards fraud and other wrongdoing within the business.
- One (1) participant stated that the "tone at the top" would set the standard together with proper and continues fraud prevention training through all levels of the corporate environment.
- One (1) participant stated fraud prevention training within the business.

The additional information does not contribute directly to the aim and purpose of the research but can add value to the culture and methodology applied when initiating an internal investigation. Such as the King VI report that recommends the business have the right resources in place, and the "tone at the top" or zero tolerance approach. If for instance, the business has a zero tolerance to any fraud or irregularities, it could influence the methodology applied when initiating an internal investigation and it could make a significant difference within the company.

2.14 SUMMARY

This chapter addressed and explained the concept of an internal investigation in the corporate environment in South Africa, as well as criminal and forensic

investigation processes. This study further focused on the process followed when initiating an internal investigation, and the methodology followed, as well as the best practices, advantages and disadvantages. The participants were questioned and asked about their opinions and experience of the internal processes followed internally within their respective working environment, and then their own personal opinions on what they experience and would consider being the most suitable methodology to follow.

The literature researched regarding the topic, and key aspects within the study did not reveal many linkages between internal, forensic and criminal investigations as one combined process, as there are minimal studies on the topic that could be found. The participants were all the most suitable candidates in their respective forensic departments and provided their opinions based on their experience and knowledge of the topic being researched. Upon reviewing the different responses, it was clear that the participants had vastly different understandings of the key concepts and the literature did not support the responses, as there wasn't much literature found in the South African crime context to compare it too.

The study identified that there is more research to be conducted to expand on the processes followed when conducting actual internal investigations in the corporate environment in South Africa. There is currently no generic or standard operating procedure followed prescribing internal, forensic and civil investigation processes coinciding with one process within the corporate environment. The next chapter will consist of the findings, recommendations and conclusion of this study.

CHAPTER 3

FINDINGS AND RECOMMENDATIONS

3.1 INTRODUCTION

The research for this study was a result of informal discussions with forensic investigators in the corporate environment in South Africa that had a concern with the methodology applied when initiating internal investigations in the corporate environment. This research focused on the different types of investigations, what it is and the objectives of each investigation type from the corporate perspective and not the SAPS specifically. This was done to ascertain what each investigation type entails, and how it is applied internally and the advantage and benefit of the corporate environment. From experience and the informal discussions with Certified Fraud Examiners that conduct internal investigations, there is a practice in South Africa where the corporate companies do not follow a process where there is action taken against suspect employees internally to remove them from the system, and criminal charges instituted and at the same time institute civil action to recover the losses suffered as a result of the employee's actions or dishonesty. The practice is followed where the suspect employee is removed from the system or employment, and no other action was taken as a norm, and the deficiency in the system is corrected, and the matter is closed and finalised.

This research aimed to establish the investigative methodology to initiate an internal investigation in the South African corporate environment to address the shortcoming, and to address the aim, the research question was formulated and asked, which investigative methodology is followed when initiating an internal investigation in the South African corporate environment?

In an attempt to address the research question, the researcher gathered information from literature by international and national authors and subject matter experts to obtain their understanding, experience and opinions on the research question, as well as interviews with investigators currently conducting internal investigations for corporate entities in South Africa.

3.2 FINDINGS

The following findings related to the research question based on information obtained from the sample group of participants and the viewpoints of literature sources obtained and interrogated are indicated below.

3.2.1 Criminal investigation and objectives of criminal investigation

During the research, it was established that:

- The literature reviewed refer to a process, and systematic approach to achieving justice regarding a certain incident, whereas the participants agreed in principle that criminal investigation is a process and added that there is a criminal element with an end goal of prosecution in a court of law.
- The objectives of criminal investigation are described and defined to be an investigation of a specific matter to obtain a sanction at the end or as an outcome through a more structured investigative procedure approach, looking at the specific crime, the suspects, what transpired in the bigger investigation objective.

3.2.2 Internal investigation and the objectives of internal investigation

During the research, it was established that:

- An internal investigation is the investigation of an incident or matter that happened within an organisation that is or must investigate to ultimately take action regarding the specific incident.
- The objectives of the internal investigation are to deal with a matter internally through a process to possibly correct and rectify the system and simultaneously removing the employee involved from the organisation and preventing the same incident from happening again.

3.2.3 Forensic investigation and the objectives of forensic investigation

During the research, it was established that:

- There are two key features of forensic investigation in that it is an investigation process, and the scientific and non-scientific methods by human and expert factors, and the forensic investigation process that could cover both internal and external evidence collection in one process.
- The objectives of forensic investigations are determined by the respective investigation, to ensure a successful conclusion of the investigation and gather the facts and report and prevent it from happening again within the business.

3.2.4 Civil litigation

During the research, it was established that:

- Civil litigation is the process of restitution or recovery of losses incurred through the actions of some employee.

3.2.5 Key and main differences between criminal, forensic and internal investigations

During the research, it was established that:

- Criminal investigation = Criminal nature.
- Forensic investigation = Criminal, administrative and/or civil in nature.
- Internal investigation = Criminal, administrative and civil in nature within a business environment, conducted by internal or external investigative resources.

3.2.6 Company's objectives with internal investigations

During the research, it was established that:

- The common denominator in the research is that companies protect themselves through internal

investigations, but no real emphasis is made about criminal prosecution in the process.

3.2.7 Procedures followed when conducting internal investigations

During the research, it was established that:

- From all the research conducted, both literature and the participants, there is no one clear and obvious step by step approach, although some of the literature have some similarities in their versions of the approach as no two investigations are the same.

3.2.8 Internal, criminal and civil litigation process coincide as one process in the corporate environment in South Africa

During the research, it was established that:

- There is no real literature available in the South African crime context to address the specific question, as it is unique to this study and research.
- The research referred to the process of internal, criminal and civil litigation in one process as it could be one investigation process, where the same evidence can be collected and obtained, and only presented in three different forums or being used in any form of judicial process, whether internally or externally if it is collected correctly.

3.2.9 The value of internal investigations in the corporate environment in South Africa

During the research, it was established that:

- There is no real literature available in the South African crime context to address the specific question, as it is unique to this study and research.
- The participants mostly agreed on the identifying of risks to make the corrections within the system, and then the risk management process and culture change. It appears as if

there is a focus on the internal processes and the company processes and culture to identify risks, although the participants focus on the internal processes there is some referring to the cost and the speed and prevention benefit to the company internally.

3.2.10 The benefit of having both internal investigation and forensic policies coincide with one another in the corporate environment

During the research, it was established that:

- There is no real literature available in the South African crime context to address the specific question, as it is unique to this study and research.
- The participants referred to the benefit for the company to have the internal and forensic policies interact with one another to be a cost, efficiency, standard and more effective utilisation of the resources or department. The participants also identified the minimising of risks and corrections within the system as single benefits for their respective employers.

The participants were also asked the question if there should be a nexus between internal and forensic investigation in the corporate environment, and it was established through the participants that the responses were an emphatic “yes” by all the participants.

3.2.11 The advantages and disadvantages of having a nexus between internal and forensic investigations in the corporate environment in South Africa

During the research, it was established that the advantages are:

- The participants mostly agreed in the responses between the holistic approach or using the resources to the maximum as a collective effort for better results as one function. From the responses, it is evident that one function should be beneficial to the internal investigation environment in the South African corporate environment.

It was also established what the disadvantages are:

- The research did not identify many disadvantages, and the participants mentioned possible concerns relating to the individuals that would conduct internal investigations could be biased and the skill shortage and working in silos.

3.2.12 Which investigative methodology is used when initiating an internal investigation in the South African corporate environment

During the research, it was established that:

- There is no real literature available to address the specific question, as it is unique to this study and research in the South African context.
- The participants identified the methodology used as a step-by-step process, where the internal investigation department must remain independent, objective and know the specific business and cover all the bases (internal, criminal, forensic and civil litigation) in one process. The responses from the participants are fairly similar in explanation, stating that there is some consensus in what methodology should be followed, even though there is no step by step process.

3.2.13 Additional information from the participants

During the research and interviews conducted the participants provided additional information as follows:

- The feedback from the participants and additional information provided mentioned and referred to other factors that could influence the methodology applied when initiating an internal investigation in the corporate environment in South Africa. Some of the factors that could influence the methodology applied in this process could be King VI, the tolerance towards fraud and corruption and consistency in how reported incidents are reported.

3.3 RECOMMENDATIONS

At the beginning of this research, it was stated that the purpose was to ascertain what methodology is applied by the corporate environment in South Africa when initiating an internal investigation. This can only be established if there is some form of written policy or directive on what process to follow by the internal investigation departments or people conducting the internal investigations. Instead, the respective companies in South Africa all have a different approach that is determined by the case at hand and severity of the matter.

This research has addressed several key concepts to understand what the internal investigation concept all entail, and the aim and research question, but very little literature both locally or internationally could be found to address the aim specifically. The research question and aim are specifically aimed at the South African corporate environment and their methodology used in the process, and no other research or literature could be found that addressed the specific topic before.

For the purpose of the clarity, more research is required in the following areas:

- The benefits of internal investigations in the corporate environment in South Africa.
- The purpose of internal investigations in the corporate environment in South Africa.
- The mandate of internal investigations in the corporate environment in South Africa.
- The value (monetary or otherwise) of internal investigations in the corporate environment in South Africa.

It is recommended that the corporate environment in South Africa adopt a process that is applicable to their respective environment where all three processes of investigation from the criminal, forensic and disciplinary process work together and collaborate in one process to ensure that the evidence collected can cover and be presented and is accepted in any and all forums.

From the literature conducted (Ferraro (2012:5), Volker (2011:109-110) and Van Rooyen (2008:87)) and the participants' responses the following procedures followed when conducting internal investigations in the corporate environment was found as illustrated in Table 3.1 below:

Table 3.1: Procedures followed when conducting internal investigations in the corporate environment

Ferraro (2012:5)	Volker (2011:109-110)	Van Rooyen (2008:87)	Participants
<ul style="list-style-type: none"> • Planning • Evidence collection • Prevention measures 	<ul style="list-style-type: none"> • Planning • Evidence collection • Prevention measures 	<ul style="list-style-type: none"> • Planning • Evidence collection • Prevention 	<ul style="list-style-type: none"> • Planning • Evidence collection

(Compiled by researcher)

Based on Table 3.1 the following generic procedures were found to be present when conducting internal investigations in the corporate environment, namely: planning, evidence collection and then prevention as identified in this study. This research aimed to identify the investigative methodology followed when initiating an internal investigation in the South African Corporate environment, and it was established that currently there are no generic procedures followed or processes applied when initiating an internal investigation in the corporate environment. It is thus strongly recommended that more research is conducted to establish general guidelines and procedures to follow when initiating an internal investigation in the corporate environment in South Africa. These guidelines and procedures can be made available in the corporate environment through various training courses presented in the industry, published in the media, for example, the ACFE's newsletters as well as academic research publications.

It is recommended that management in the corporate environment in South Africa be educated and informed of the value, processes, benefits, and legal obligations of internal investigations in the corporate environment in South Africa.

It is, furthermore, recommended to conduct training within the corporate environment for both management and employees in the Human resources and internal investigations departments about the different types of investigations, and how it can coincide within one process to the benefit of the company, and how to conduct the three-way investigations (Disciplinary, Forensic and Civil investigations) in one process.

3.4 SUMMARY

This research and study aimed to determine what methodology is used to initiate an internal investigation in the corporate environment in South Africa. It is evident that the information regarding the topic is very limited as it is very specific to the South African corporate environment, and that more research is required.

It was also established that the literature is very limited, and the participants have very different views and opinions on what processes or methodology should be applied when initiating internal investigations, as well as the processes followed, and the ultimate end results.

There is no clear and evident methodology used to draw an inference from or establish a pattern or standard regarding the topic, and it might be to the detriment of the respective corporate environment in South Africa.

The researcher hopes that this study will inspire some corporate companies or individuals involved with internal investigations to address the methodology followed and document as set standard to ensure consistency throughout the initiation process of internal investigations.

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Case Law

State vs Botha and other (1) 1995(2) SACR598 (W)

6. ANNEXURES

6.1 ATTACHMENT A: INTERVIEW SCHEDULE FOR SAMPLE

Interview Schedule

TOPIC: THE INVESTIGATIVE METHODOLOGY TO INITIATE INTERNAL INVESTIGATIONS IN THE SOUTH AFRICAN CORPORATE ENVIRONMENT

I am De Wet Ferreira an independent Forensic Investigator that is currently busy finalizing my Magister Technologiae (Master's Degree) at the University of South Africa. My supervisor is Dr Juanida Horne who can be contacted at the university on 012 433 9415 with regards to any matters pertaining to my research.

The research aims to establish the investigative methodology to initiate an internal investigation in the South African corporate environment.

The key Research Question seeks to answer the following question:

Which investigative methodology is followed when initiating an internal investigation in the South African corporate environment?

My research seeks to explore the investigative methodology used to initiate an internal investigation in the South African corporate environment. Your participation in this research is of major importance for the establishment of the methodology applied in the process.

The researcher is bound to his assurances and guarantees by the ethics code of research of the University of South Africa. The information you provide will be used in a research project for a Master of Technology degree registered with the Programme Group: Police Practice at the University of South Africa. The analysed and processed data will be published in a research report.

The interviewer will note your answers himself, on paper and record the interview. Should any question be unclear, please ask the researcher for clarification. Only one answer per question is required. When answering the questions, it is very important to give your own opinion.

All interviews will be treated as strictly confidential

Your participation in this study is voluntary and can be terminated at any time. All responses will be treated with the utmost confidentiality by the researcher, and all participants will remain anonymous. The names of the organisations participating in this will not be included. All participants will be allocated a number and completed interview schedules will be captured in an electronic database. All computerised notes will be stored on a secure, password-protected computer. Transcribed interviews will be kept in a secure place for a period of three years as required by the university rules. The transcribed interviews will thereafter be destroyed.

Research agreement between researcher and participant

I undertake not to disclose your name.

All information will be treated confidentially.

When reporting on the findings no names of individuals or companies will be mentioned.

You are free to terminate the questioning at any stage of the interview.

The above information has been explained to me, and I understand it. My name will not be disclosed, and I will allow my information or responses to be used as in a confidential manner that will not harm me, or my employer in any way and I am also aware that the thesis might be published in the future.

If you have any queries about this interview schedule, please contact Mr De Wet Ferreira at 0832300098.

Thank you for your co-operation.

Mr De Wet Ferreira

Masters student

UNISA

Signature of participant

Place

Date

TOPIC: THE INVESTIGATIVE METHODOLOGY TO INITIATE INTERNAL INVESTIGATIONS IN THE SOUTH AFRICAN CORPORATE ENVIRONMENT

SECTION A: Background

- A.1 How long have you been an investigator in the South African corporate environment?
- A.2 Specify what type of training did you undergo in the process of internal investigations?

SECTION B: The investigative methodology utilised when initiating an internal investigation in the corporate environment in South Africa

- B.1 What is your understanding of criminal investigation?
- B.2 What are the objectives of a criminal investigation?
- B.3 What is your understanding of an internal investigation?
- B.4 What are the objectives of internal investigation?
- B.5 What is your understanding of forensic investigation?
- B.6 What are the objectives of forensic investigation?
- B.7 What is your understanding of civil litigation?
- B.8 What is your understanding of the main differences between the three types of investigations namely Internal, criminal and forensic investigation?
- B.9 What is the company's objectives with internal investigation?
- B.10 What is the procedure to follow when conducting an internal investigation in the corporate environment in South Africa?
- B.11 How can internal, criminal and civil investigation coincide as one process in the corporate environment in South Africa?
- B.12 What is the value of internal investigation in the corporate environment in South Africa?
- B.13 What is the benefit of having both internal and forensic investigation policies coincide with one another in the corporate environment in South Africa?
- B.14 Should there be a nexus between internal and forensic investigation in the corporate environment?

- B.15 What is the advantages of having a nexus between internal and forensic investigation in the corporate environment in South Africa?
- B.16 What is the disadvantages of having a nexus between internal and forensic investigation in the corporate environment?
- B.17 Which investigative methodology is used when initiating an internal investigation in the corporate environment in South Africa?
- B.18 Additional information from the participants relating to the topic?

Thank you very much for your participation.

6.2 ANNEXURE A: PERMISSION FROM NAMPAK

28 Areskutan Road
Valhalla
Pretoria
0001

17 May 2016

To: Nampak
Head of Forensics

Dear Morne

CONSENT FORM TO INTERVIEW PARTICIPANTS FOR RESEARCH IN MASTERS STUDY

I am De Wet Ferreira an Independent Forensic Investigator that is currently busy finalizing my Magister Technologiae (Master's Degree) at the University of South Africa. My supervisor is Dr Juanida Horne who can be contacted at the university on 012 433 9415 with regards to any matters pertaining to my research.

I would appreciate it if I could interview you, or some of your employees in the Forensic Investigation Department to obtain some data for my research. My research seeks to explore the relationship between Industrial Relations (IR) and Forensic Investigations in the corporate environment.

The aim of the research is to analyse the decision on the procedure to follow when initiating an investigation in the corporate environment, taking into consideration the relationship between the IR and Forensic Investigation procedures in the best interest of the company, including the disciplinary enquiry, criminal prosecution and civil litigation.

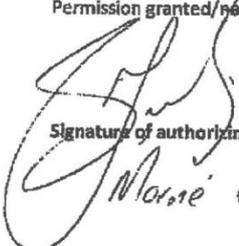
The key Research Questions seek to answer the following questions:

- a. What is an internal investigation?
- b. What investigative methodology should be followed when initiating an internal investigation in the corporate environment in the best interest of the company?

The participants would be requested to answer questions and the questions, responses and the results will be revealed in this study.

The researcher is bound to his assurances and guarantees by the ethics code of research of the University of South Africa. The information you provide will be used in a research project for a Master of Technology degree registered with the Programme Group: Police Practice at the University of South Africa. The analyzed and processed data will be published in a research report.

Permission granted/~~not granted~~


Signature of authorizing officer
Marie Britz

BRYANSTON
Place

2016-05-17
Date

6.3 ANNEXURE B: PERMISSION FROM CAPITEC BANK

28 Areskutan Road

Valhalla

Pretoria

0001

17 May 2016

To: Capitec Bank
Head of Forensics

Dear Jannie,

CONSENT FORM TO INTERVIEW PARTICIPANTS FOR RESEARCH IN MASTERS STUDY

I am De Wet Ferreira an Independent Forensic Investigator that is currently busy finalizing my Magister Technologiae (Master's Degree) at the University of South Africa. My supervisor is Dr Juanida Horne who can be contacted at the university on 012 433 9415 with regards to any matters pertaining to my research.

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The aim of the research is to analyse the decision on the procedure to follow when initiating an investigation in the corporate environment, taking into consideration the relationship between the IR and Forensic Investigation procedures in the best interest of the company, including the disciplinary enquiry, criminal prosecution and civil litigation.

The key Research Questions seek to answer the following questions:

- a. What is an internal investigation?
- b. What investigative methodology should be followed when initiating an internal investigation in the corporate environment in the best interest of the company?

The participants would be requested to answer questions and the questions, responses and the results will be revealed in this study.

The researcher is bound to his assurances and guarantees by the ethics code of research of the University of South Africa. The information you provide will be used in a research project for a Master of Technology degree registered with the Programme Group: Police Practice at the University of South Africa. The analyzed and processed data will be published in a research report.



Permission granted/~~not granted~~


Signature of authorizing officer

Stellenbosch
Place

17/05/2015
Date

6.4 ANNEXURE C: PERMISSION FROM DISCOVERY HEALTH

28 Areskutan Road
Valhalla
Pretoria
0001

17 May 2016

To: Discovery Health
Head of Forensics

Dear Marius

CONSENT FORM TO INTERVIEW PARTICIPANTS FOR RESEARCH IN MASTERS STUDY

I am De Wet Ferreira an independent Forensic Investigator that is currently busy finalizing my Magister Technologiae (Master's Degree) at the University of South Africa. My supervisor is Dr Juanida Horne who can be contacted at the university on 012 433 9415 with regards to any matters pertaining to my research.

I would appreciate it if I could interview you, or some of your employees in the Forensic Investigation Department to obtain some data for my research. My research seeks to explore the relationship between Industrial Relations (IR) and Forensic Investigations in the corporate environment.

The aim of the research is to analyse the decision on the procedure to follow when initiating an investigation in the corporate environment, taking into consideration the relationship between the IR and Forensic Investigation procedures in the best interest of the company, including the disciplinary enquiry, criminal prosecution and civil litigation.

The key Research Questions seek to answer the following questions:

- a. What is an internal investigation?
- b. What investigative methodology should be followed when initiating an internal investigation in the corporate environment in the best interest of the company?

The participants would be requested to answer questions and the questions, responses and the results will be revealed in this study.

The researcher is bound to his assurances and guarantees by the ethics code of research of the University of South Africa. The information you provide will be used in a research project for a Master of Technology degree registered with the Programme Group: Police Practice at the University of South Africa. The analyzed and processed data will be published in a research report.

Permission granted/~~not granted~~



Signature of authorizing officer

Place Sandton Date 17/5/16

6.5 ANNEXURE D: PERMISSION FROM ANGLO AMERICAN

28 Areskutan Road
Valhalla
Pretoria
0001

17 May 2016

To: Anglo American

Head of Forensics/Corporate Service

Dear Hein

CONSENT FORM TO INTERVIEW PARTICIPANTS FOR RESEARCH IN MASTERS STUDY

I am De Wet Ferreira an independent Forensic Investigator that is currently busy finalizing my Magister Technologiae (Master's Degree) at the University of South Africa. My supervisor is Dr Juanida Horne who can be contacted at the university on 012 433 9415 with regards to any matters pertaining to my research.

I would appreciate it if I could interview you, or some of your employees in the Forensic Investigation Department to obtain some data for my research. My research seeks to explore the relationship between Industrial Relations (IR) and Forensic Investigations in the corporate environment.

The aim of the research is to analyse the decision on the procedure to follow when initiating an investigation in the corporate environment, taking into consideration the relationship between the IR and Forensic Investigation procedures in the best interest of the company, including the disciplinary enquiry, criminal prosecution and civil litigation.

The key Research Questions seek to answer the following questions:

- a. What is an internal investigation?
- b. What investigative methodology should be followed when initiating an internal investigation in the corporate environment in the best interest of the company?

The participants would be requested to answer questions and the questions, responses and the results will be revealed in this study.

The researcher is bound to his assurances and guarantees by the ethics code of research of the University of South Africa. The information you provide will be used in a research project for a Master of Technology degree registered with the Programme Group: Police Practice at the University of South Africa. The analyzed and processed data will be published in a research report.

Permission granted/not granted


Signature of authorizing officer

Place

Hein Bezuidenhout Manager, Security Services Anglo Operations (Pty) Limited Security Department Date 2016 -05- 30
--

6.6 ANNEXURE E: UNISA ETHICAL CLEARANCE



COLLEGE OF LAW RESEARCH ETHICS REVIEW COMMITTEE

Date: 2017/04/06

Reference: ST 30 / 2017

Applicant: De Wet Ferreira

Dear De Wet Ferreira
(Supervisor: Dr J Horne
DECISION: ETHICS APPROVAL

Name	De Wet Ferreira
Proposal	The nexus between the objective of internal investigation and forensic investigations in the South African corporate environment
Qualification	Mtech in Forensic Investigations

Thank you for the application for research ethics clearance by the College of Law Research Ethics Review Committee for the above mentioned research. **Final approval is granted.**

The application was reviewed in compliance with the Unisa Policy on Research Ethics.

The proposed research may now commence with the proviso that:

1. *The researcher will ensure that the research project adheres to the values and principles expressed in the Unisa Policy on Research Ethics which can be found at the following website:*

http://www.unisa.ac.za/cmsys/staff/contents/departments/res_policies/docs/Policy_Research%20Ethics_rev%20app%20Council_22.06.2012.pdf

2. *Any adverse circumstances arising in the undertaking of the research project that is relevant to the ethicality of the study, as well as changes in the methodology, should be communicated in writing to the College of Law Ethical Review Committee.*



University of South Africa
Preller Street, Muckleneuk Ridge, City of Tshwane
PO Box 392, Unisa, 0003, South Africa

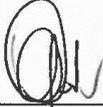
An amended application could be requested if there are substantial changes from the existing proposal, especially if those changes affect any of the study-related risks for the research participants

- 3. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the specific field of study.*

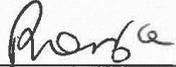
Note:

The reference number (top right corner of this communique) should be clearly indicated on all forms of communication (e.g. Webmail, E-mail messages, letters) with the intended research participants, as well as with the URERC.

Kind regards



PROF D GOVENDER
CHAIR PERSON: RESEARCH ETHICS
REVIEW COMMITTEE
COLLEGE OF LAW



PROF R SONGCA
EXECUTIVE DEAN:
COLLEGE OF LAW

6.7 ANNEXURE F: TURN-IT-IN REPORT

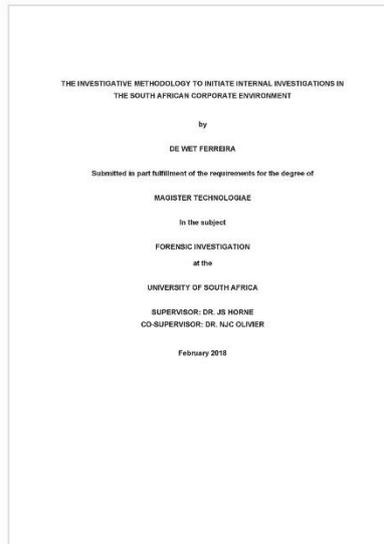


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CHAPTER 2
THE INVESTIGATIVE METHODOLOGY UTILISED WHEN INITIATING AN INTERNAL
INVESTIGATION IN THE CORPORATE ENVIRONMENT IN SOUTH AFRICA

2.1 INTRODUCTION

"Steinhoff CEO resigns after fraud claims" (MSM Money Business report 06 December 2017), and the share price dropped in value with an estimated 60% in a single day as a result of the resignation and allegations. An international brand and company with subsidiaries in various countries loses value after a single announcement was made regarding possible allegations of internal fraud, with PricewaterhouseCoopers appointed to conduct an internal investigation.

"The Association of Certified Fraud Examiners (ACFE) uses the term occupational fraud and abuse and defines it as "the use of one's occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization's resources or assets". (Biegelman & Barlow, 2012:24).

Every second year a global study is conducted relating to internal or occupational fraud in more than 100 different countries specifically to obtain statistics on matters such as the Steinhoff investigations, to ascertain how it was reported, what was done, how was it concluded and the associated cost or losses per case or investigation. The Association of Certified Fraud Examiners Report to the Nations (2016:2) made some rather disturbing findings regarding fraud in the corporate environment in the study. The ACFE conducts research every year to bring out the Report to the Nations every second year, with the last report issued in 2016. One significant statistic is the fact that an organisation loses an estimated 5% of its revenue in each year because of occupational fraud, and the total loss caused by the cases in their study exceeded \$6.3 billion, with an average loss per case of \$2.7 million.

The report furthermore reports that "Most occupational fraudsters are first time offenders, and only 2.2% of perpetrators in this study had previously been convicted of a fraud related offence, and only 8.3% had previously been fired by an employer for fraud related conduct. In 40.7% of cases, the victim organizations decided not to refer their fraud cases to law enforcement, with fear of bad publicity being most-cited reason. Of the cases in their study, 23.1% resulted in a civil suit, and 80.8% of such completed suits led either a judgement for the victim or a settlement. The most prominent organizational weakness that contributed to the fraud in their study was a lack of controls, which was cited in 28.3% of cases, followed by an override of existing controls, which contributed to just over 20% of cases.



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